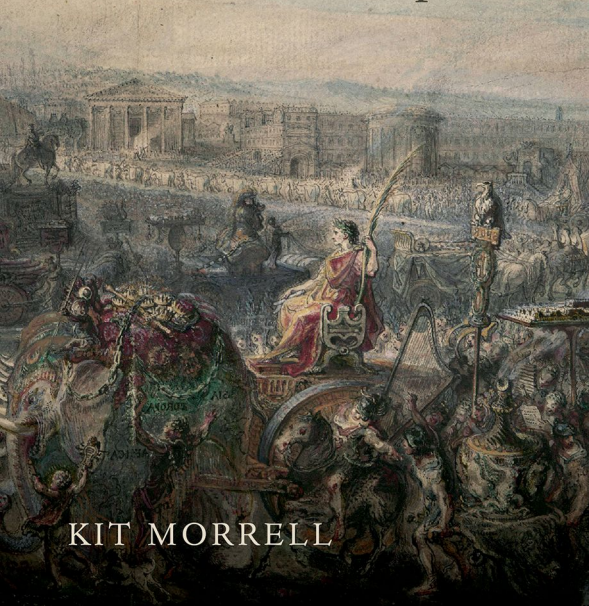


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Pompey, Cato, and the Governance of the Roman Empire



KIT MORRELL

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POMPEY, CATO, AND THE GOVERNANCE
OF THE ROMAN EMPIRE

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KIT MORRELL

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Preface

This book originated as a PhD thesis completed at the University of Sydney in 2014. Three months before submission, at a conference dinner, a delegate from another university asked about my thesis topic. I replied that I was examining efforts to improve provincial governance during the late republic. My interlocutor looked sceptical. ‘There *were* some? Must be a very short thesis!’ The usual stories followed—Verres’ depredations in Sicily and Brutus’ loan to the Salaminians; the stuff of old textbooks on Roman provincial administration. Jest or no, that exchange brought home to me the *utilitas* of my project. By presenting it now in book form, I hope, if not always to persuade, then at least to provoke fresh thinking about late republican leaders and their responses to the challenges of imperial governance.

Many people have aided in the creation of this book, both in its thesis form and in the process of editing and rewriting. I owe particular thanks to my great friend and supervisor Kathryn Welch for her encouragement, guidance, and unfailing confidence in the project; to my associate supervisor, the late Martin Stone, for his support, insight, and invaluable critical commentary; and to Sarah Lawrence for her friendship, encouragement, and exceptional generosity in reading and commenting on thesis drafts and, more recently, in advising on the Latin translations for the book. Any shortcomings are my own.

I am immensely grateful to my three thesis examiners, Miriam Griffin, Nathan Rosenstein, and Catherine Steel, and to the two anonymous readers for Oxford University Press, whose generous and thoughtful comments have been invaluable in transforming the thesis into the present book. I also extend my sincere thanks to Roger Pitcher for his advice on Greek passages; to Brian Taylor for his German reading classes; to Charlotte Loveridge and Georgina Leighton of Oxford University Press for their support and patience in bringing this book to completion; to Ben Harris for his astute and efficient copy-editing; and to the many friends and fellow researchers who have taken time to discuss aspects of my work over the years. Special thanks also to Katerina Beckova for translating J. Pečírka’s article from Czech, and to Archibald McKenzie for translation from Norwegian. I would further like to acknowledge the support of the Andrew Wright Travel Bursary, which facilitated a period of research in Oxford during my PhD candidature, and the Australasian Society for Classical Studies’ Early Career Award (2015), which funded additional research undertaken for the published version.

I am grateful beyond words to my wonderful father Robert for his extraordinary good humour, support, and kindness over many years, and for his selfless efforts as a reader and counsellor. Finally, I would like to express

the greatest love and gratitude to my sister Sascha, who has been my Tiro throughout the process of writing the thesis and turning it into a book, with her tireless and expert editing, encouragement, and advice.

There are several people I wish could have seen this book. One is Martin Stone, who first introduced me to Roman republican history, the importance of philosophical ideas, and the deep and meticulous probing of ancient sources as an historical method. The study of Roman history lost an outstanding mind with Martin's death in December 2015, as all those close to him lost a loved friend, mentor, and acute critic.

Another is my beloved mother Julie (1957–2010), who always encouraged me to excel, to create, and to imagine. I am forever grateful.

Kit Morrell

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List of abbreviations

Modern works are cited using the author–date system. Full details may be found in the bibliography. In addition, the following abbreviations are used in the text and notes:

- E&K Edelstein, L., and I. G. Kidd (1972–99) *Posidonius*, 3 vols, Cambridge.
- L&S Long, A. A., and D. N. Sedley (1987) *The Hellenistic Philosophers*, 2 vols, Cambridge.
- MRR Broughton, T. R. S. (1951–86) *The Magistrates of the Roman Republic*, 3 vols, New York.
- RDGE Sherck, R. K. (1969) *Roman Documents from the Greek East*, Baltimore.
- RRC Crawford, M. H. (1974) *Roman Republican Coinage*, 2 vols, Cambridge.
- RS Crawford, M. H. (ed.) (1996) *Roman Statutes*, 2 vols, London.
- TLRR Alexander, M. C. (1990) *Trials in the Late Roman Republic, 149 BC to 50 BC*, Toronto.

Note on the texts

The texts used for Cicero's letters are Shackleton Bailey's editions in the Cambridge Classical Texts and Commentaries series; for the speeches, the Oxford Classical Texts (OCT) editions by Clark and Peterson; for *De Republica* and *De Legibus*, Powell's OCT; for *De Officiis*, Winterbottom's OCT; for *De Finibus*, *Tusculan Disputations*, and *Brutus*, the Teubner editions of Moreschini, Pohlenz, and Malcovati respectively. For *De Republica*, I have retained the numbering system used by Ziegler and the Loeb Classical Library, with Powell's new numbering in brackets.

For Plutarch's *Lives*, I have used Ziegler's Teubner editions; however, for convenience, I have followed the paragraph numbering used in the Loeb series.

The text of Cassius Dio is that of Boissevain (Weidmann).

For all other authors I have used either the most recent Teubner (Appian, Caesar, Justin, Lucan, Orosius, Pliny the Elder, Sallust, Strabo, Suetonius, Tacitus, Valerius Maximus, Velleius, the *Periochae* of Livy, and the *Adnotationes super Lucanum*) or OCT (Asconius, Aulus Gellius, Livy, Seneca the Younger, and the *Commentariolum Petitionis*), with the exception of Augustine (Dombart and Kalb, Brepols); Diodorus Siculus (Walton, Loeb Classical Library); Florus (Malcovati, Regia Officina Polygraphica); Josephus (Niese, Weidmann); and the scholia on Cicero's speeches (Stangl, Olms).

All translations are my own, unless otherwise specified.

Introduction

Neither did the provinces disapprove of that state of affairs, for the rule of senate and people had been discredited by the struggles of the leaders and the greed of the magistrates, and there was but feeble protection in laws deranged by violence, ambition, and finally by money.¹

(Tacitus *Annals* 1.2)

Provincial governance under the Roman republic has an atrocious reputation. The abuses are undeniable: corrupt officials, ambitious generals, and greedy tax farmers exploited the provinces for personal gain, on top of the official demands Rome made of its allies. At home, unscrupulous jurors and fierce competition for public office compounded the problems. The rise of corruption and powerful proconsuls threatened the very survival of the Roman republic, yet the republican government was unwilling, or unable, to remedy the evils its sprawling empire brought with it.² Real solutions required the centralized authority of a dictator or *princeps*—or so the conventional narrative runs.³

Scholarship has not been unanimous. Cobban (1935, 194) argued for a ‘general interest in the sound administration of the provinces’ during the republic that was realized to a considerable extent. Brunt (1961, 190) made a strong case that ‘in its intentions the government of senate and people was no

¹ *neque provinciae illum rerum statum abnuebant, suspecto senatus populiue imperio ob certamina potentium et avaritiam magistratuum, invalido legum auxilio, quae vi ambitu postremo pecunia turbabantur.*

² The idea that the challenges of governing a large territorial empire led to the fall of the Roman republic is at least as old as Machiavelli (see Morstein-Marx and Rosenstein 2006, with references).

³ e.g. Heitland 1911, 201: ‘the Roman Republic, unable to cure its internal maladies, rent itself, while the subject world passively looked on . . . The same internal corruption that cankered and destroyed the Roman Republic was also at the bottom of provincial extortion and misgovernment; and when Augustus made an end of corrupt public life in Rome, he at once relieved the suffering of the provinces.’ For Mommsen (1908, esp. 4.406–15), the messiah was Caesar. The same dichotomy between republic and principate underlies much modern scholarship, in more or less extreme form.

less honourable than that of the emperors', and not much worse in practice. Lintott (1993) highlights the continuity of many aspects of administration between republic and principate, and even those most critical of republican governance recognize that not all Romans were like Cicero's monstrously corrupt Verres.⁴ But the extent to which Romans of the republic were aware of the problems of their empire, and the efforts that were made to address them, warrant closer attention. This study focuses on the contributions made by Cn. Pompeius Magnus and M. Porcius Cato in the period 70–50.⁵ I argue that these two figures not only had more in common than is generally acknowledged but that, in the late 50s, they were jointly responsible for the republic's most inventive attempt to improve imperial governance.

POMPEY, CATO, AND PROVINCIAL REFORM

Pompey and Cato may seem an unlikely pair of protagonists. They are, however, particularly worthy of study, and of study in combination, both on account of their strong and longstanding interest in provincial governance, and of the reform programme they pursued jointly in 52–50. Their contribution to provincial reform has tended to be overlooked, however, partly because of reluctance to accept them as genuine reformers, let alone collaborators.

In presenting Cato as an active reformer, this study seeks to overcome the prevailing view of him, ancient and modern, as a conservative obstructionist. On the one hand, Cato's interest in the welfare of Rome's allies is widely acknowledged: Cicero calls him 'the one man who hears all our allies' complaints';⁶ one modern commentator the 'conscience of empire' (Stem 1999, 58). On the other hand, Cato has been allowed little practical influence. For many scholars, Cicero's well-known quip—'he speaks as if he were in Plato's republic, not Romulus' dregs'—is Cato in a nutshell.⁷ Thus Mommsen paraphrases Cicero before pronouncing Cato 'a cloud-walker in the realm of abstract morals' whose whole politics consisted in stubborn and backwards-looking opposition.⁸ Flower, writing more than 150 years later, takes much the same

⁴ For example, Jolliffe, who titled his work *Phases of Corruption in Roman Administration in the Last Half-Century of the Roman Republic* (1919), made a partial exception of Pompey.

⁵ All dates are BC unless otherwise indicated.

⁶ Cic. *fam.* 15.4.15 SB 110: *a quo uno omnium sociorum querelae audiuntur.*

⁷ Cic. *Att.* 2.1.8 SB 21: *dicit... tamquam in Platonis πολιτείᾳ, non tamquam in Romuli faece, sententiam.* Cf. 1.18.7 SB 18; Plut. *Phoc.* 3.1. As Gruen (1974, 54) notes, 'Cicero's fits of pique need not be taken too seriously. In general, he reserved the utmost praise for Cato.'

⁸ Mommsen 1908, 4.454–5. The *Römische Geschichte* was originally published 1854–6.

view.⁹ One critic to question that view is Dragstedt (1969), who notes the damage done by Mommsen's portrait of 'the Don Quixote of the aristocracy' and offers an alternative assessment.¹⁰ But Cato's ancient admirers have also contributed to the caricature by insisting on Cato's idealism and independence at the expense of Cato the politician.¹¹

One result has been that Cato's efforts on behalf of provincials are sometimes written off as counterproductive 'utopianism'.¹² Stockton, in the space of a few paragraphs, attributes to Cato's opposition to the *publicani* the breakdown of *concordia ordinum*, Caesar's consulship, and the civil war.¹³ Gruen (1974, 54) offers a partial corrective: Cato shows that 'motivation by high principle could coexist with practical politics'. However, while he rightly credits Cato with 'reformist and progressive' projects, Gruen's Cato remains an isolated figure, with serious implications for estimating his practical contribution.

This study will reveal the considerable flexibility Cato sometimes displayed in the cause of reform. We see not only 'cracks in his integrity' (Steel 2001, 106) but constructive and sometimes unconventional efforts to control corruption in Rome and in the provinces.¹⁴ Besides sponsoring measures for the benefit of provincials, he used his Cyprus mission to set an example of upright administration and eventually gave his name to a far-reaching policy of ethical governance. Furthermore, Cato was prepared to cooperate with Pompey where their objectives coincided, not only in 52, the year that Cato saw Pompey installed as sole consul, but in 55, after Pompey had excluded Cato from the praetorship.

Assessments of Pompey are more varied than of Cato—everything from Mommsen's simple soldier, unfit for statesmanship, to Gruen's enlightened legislator.¹⁵ Yet, as in Cato's case, certain tenacious misconceptions have limited appreciation of his achievement as a reformer. Besides the Mommsenian fiction that Pompey was somehow intellectually lacking, there

⁹ Flower 2010, 145 (citing the Cicero passage): 'Cato's personal fantasy that he was living in the same kind of traditional republic as his ancestors had was not simply a delusion or a silly game. It was a dangerous political stance that prevented both him and others from addressing the actual problems Rome faced and from finding solutions that could have created a more stable and less contested republic.'

¹⁰ Dragstedt 1969, 69–70; cf. Fehrle 1983, ix. Other scholars to present a more constructive Cato include Gruen (1974) and Meier (1980).

¹¹ An extreme example is Sen. *ep.* 104.30, where Cato is depicted as isolated and unchangeable, aloof from Pompey even in the civil war. Cato's biographers likewise stressed Cato's independence (see 'Sources and scholarship', below).

¹² A particularly transparent manifestation is Tyrrell and Purser 1904, 237, where Cato's efforts to protect free cities like Sicyon are dismissed as 'Quixotism'.

¹³ Stockton 1971, 166–7, referring to Cic. *Att.* 2.1.8 SB 21. Plut. *Cat. Min.* 30.6 makes a similar comment.

¹⁴ Cf. Morrell 2014 on Cato's flexibility as praetor in 54.

¹⁵ Mommsen 1889, 12; Gruen 1969a, 467 (cf. 1974, 239, 459).

is the image propagated by Frank and Badian of Pompey as a ‘champion of the *equites*’—a role that sits uneasily with ‘protector of provincials’.¹⁶ These and other misconceptions will be challenged in this book.

A further obstacle is the reputation Pompey acquired for his part in the Sullan civil war, when he was responsible for executing a number of prominent Roman citizens. Years later, the elderly orator Helvius Mancinus would dub Pompey the ‘teenage butcher’ (*adulescentulus carnifex*) for his part in these events.¹⁷ The phrase is frequently seized upon by modern scholars as a summation of Pompey’s early character and might seem to contradict the argument advanced here for Pompey’s ethical concerns. But this single anecdote, derived from an adversarial context, has received disproportionate attention, and oversimplifies a complex picture. Valerius Maximus himself comments that Helvius acted unreasonably in dredging up acts done in civil war conditions (6.2.8). Plutarch (*Pomp.* 10.5), drawing on a more positive tradition, points out that Pompey was obliged to punish Sulla’s principal enemies, but aided many others to escape.¹⁸ These and other stories are more in keeping with Pompey’s mature policy, when he had a free hand. What is clear is that Pompey was able to earn a reputation for mildness and an extensive provincial clientele *while* dealing harshly with enemy leaders.¹⁹ This study will show how Pompey’s interest in the humane treatment of foreigners, already apparent in civil war, found expression in his three consulships, in his eastern campaigns, and even in his triumph of 61.

To put Pompey’s achievement in perspective, the attention Caesar has received as a reformer also requires review. Cicero sang the praises of Caesar’s extortion law, and Dio commended his taxation reforms in Asia. Modern scholarship has been still more enthusiastic. For Mommsen (1889, 545–6), Caesar was the embodiment of the ‘true king’ that the provinces urgently required. More sober scholarship credits him with extensive and enduring innovation in the *lex Julia de pecuniis repetundis* of 59 and long-overdue tax reform in Asia. But, as I will argue, the *lex Julia* was probably not as innovative as is often thought and perhaps not Caesar’s idea. At the same time, his conduct in Gaul casts serious doubt on the genuineness of his interest in the welfare of foreigners. As Caesar himself tells us, he aimed not only to conquer but even, on occasion, to extirpate (*BG* 6.34.8). More generally, he waged bloody wars of unblushing conquest, something Pompey pointedly did not do; Pliny (*NH* 7.92–9) draws the distinction vividly when he juxtaposes the

¹⁶ Frank 1914; 1914a, 323–5; Badian 1972, 98–100, 112.

¹⁷ Val. Max. 6.2.8. On the context, see Steel 2013b.

¹⁸ Plut. *Pomp.* 20.5; cf. 20.4; Cic. *Verr.* 2.5.153. Most of Pompey’s notorious victims had been declared *hostes* (Seager 1992, 209).

¹⁹ See e.g. Plut. *Pomp.* 10.2, 6–7; Diod. 38/39.20; Badian 1958, ch. 11.

1,192,000 victims of Caesar's foreign wars with the millions Pompey brought under Roman rule.

Still, Caesar's case demonstrates that Pompey and Cato were not the only individuals interested in provincial reform in this period. L. Lucullus and Cicero will be considered shortly. Others appear in the course of this study as collaborators of Pompey and Cato, such as A. Gabinius and the younger P. Servilius Isauricus, or (perhaps) as rivals. Once such is P. Clodius Pulcher. Better known for his rowdiness, Clodius' legislation also reveals an interest in effective and transparent governance.²⁰ Clodius' engagement with the problems of imperial rule cannot be considered fully here. I hope, however, that my study of Pompey and Cato will stimulate further discussion of his and other individuals' interest in provincial reform.

As sole consul in 52, Pompey passed a law imposing a five-year interval between civic magistracy and provincial command (Dio 40.56.1). The law sought to address corruption in Rome and the provinces by breaking the vicious cycle of extortion and electoral bribery. Among the governors appointed under the new law was Cicero, assigned the province of Cilicia. In February 50, Cicero wrote to Atticus that he and the other governors of the eastern provinces were 'strengthening Cato's policy'.²¹ This brief but suggestive comment is crucial in understanding the provincial reform effort of the late 50s. As Gelzer perceived, it suggests that Cato had made a special appeal to provincial governors calling for upright administration, perhaps in connection with the *lex Pompeia*.²² Shackleton Bailey went further: Cato, he said, 'may well have been behind' Pompey's law.²³ Neither Gelzer nor Shackleton Bailey offered any further argument. My study takes up and substantiates their suggestions, emphasizing both Pompey's and Cato's contributions. To fully appreciate the *lex Pompeia*, I argue, we must accept a degree of collaboration between these two men more usually seen as combatants. The product of that collaboration—not just a new law, but a new approach to imperial governance—is the keystone of this book.

WHAT WAS GOOD GOVERNMENT?

By way of launching this enquiry into Pompey and Cato's involvement in provincial reform, the remainder of the introduction will address some

²⁰ See e.g. Tatum 1999, esp. ch. 5 on the censorship and *obnuntiatio*.

²¹ Cic. Att. 6.1.13 SB 115: *firmant πολίτευμα Catonis*.

²² The suggestion appeared first in Gelzer's *RE* article on Cicero (1939, col. 982) and again in his biography (1969, 232).

²³ Shackleton Bailey 1965–70, 3.246. Gruen's review (1969a, 467) rejects Shackleton Bailey's suggestion precisely because it envisaged cooperation between Cato and Pompey.

preliminary matters: first, the meaning of ‘good governance’ and the relevance of philosophy; secondly, Pompey and Cato’s position within the longer history of provincial reform; finally, some particular historiographical and methodological challenges presented by this project. An overview of the argument then follows.

Rather than evaluate an ancient society by ‘United Nations’ standards of justice and human rights, the result of which can only ever be condemnation, it is more useful to enquire what good governance meant within the framework of Roman imperialism, however deficient or paternalistic that may seem to us.²⁴ This was a world in which slavery and ‘profits of empire’ were not only ubiquitous but essentially unquestioned.²⁵ The right of the conqueror to the property of the conquered, recognized by Xenophon as a law for all men for all time, was not doubted even by the most principled of thinkers.²⁶ Taxation was regarded as justified by victory in war or by benefits received in return.²⁷ We do find biting self-criticism, but generally this criticism is directed at empire in its morally degraded form rather than empire per se—even Tacitus’ critique of the Roman *imperium* as a ‘false name’ presupposes the possibility of a ‘true’ form.²⁸ Cicero’s *De Officiis*, which presents one of the sharpest critiques of Roman imperialism and sets some of the highest standards for the treatment of foreigners, goes so far as to impose a duty on statesmen to extend the bounds of empire (2.85). In short, possessing and profiting from an empire was regarded as entirely acceptable, even ethically mandated, provided it was acquired and exploited in the ‘right’ way.

What this meant is revealed in a long series of extortion laws and the numerous examples of praise and blame bestowed on Roman governors, as well as the more overt reflections of ancient writers on imperial governance. As Brunt and Griffin emphasize, Cicero’s public statements on provincial governance must reflect widely shared ideals.²⁹ There is a tendency, in some recent scholarship, to dismiss Cicero’s expressions of concern for provincials as ‘mere rhetoric’.³⁰ The functions and occasions of Cicero’s speeches placed

²⁴ As Pečírka (1955) emphasizes, responding particularly to Carcopino’s critique of Cicero.

²⁵ See e.g. Garnsey 1997, esp. ch. 6 on the extremely limited ancient critique of slavery as an institution. Brunt (1990, 321) points out that imperial taxation was not questioned until probably the nineteenth century.

²⁶ Xen. *Cyr.* 7.5.73. Cf. e.g. Cic. *Verr.* 2.1.57, 2.5.127, drawing a contrast between the legitimate spoils that adorn the city of Rome and pilfered treasures seen only in private homes.

²⁷ See e.g. Cic. *Verr.* 2.3.12; *Q. fr.* 1.1.33 SB 1; [Quint.] *dec. min.* 341.5–7.

²⁸ Tac. *Agr.* 30.5: *falsum nomen*. Cf. e.g. Sall. *Cat.* 10–11. A possible exception is Philus’ speech in Cicero’s *De Republica* book 3, which mounts a critique in principle on both imperialism and slavery.

²⁹ Brunt 1990, 289, 318–19; Griffin 2008, 93. Cf. Yakobson 2009, esp. 59–60.

³⁰ One of the more extreme examples is Prag’s argument (2013, esp. 283) that Cicero’s *Verrines* did the Sicilians more harm than good.

certain limits on Cicero's critique of empire, as Steel has shown,³¹ but the nature of oratory equally requires that what Cicero *did* say was likely to persuade his audience. Behind this stood a 'code' of ethical conduct towards enemies and allies that was broadly accepted as an ideal, though often ignored in practice (Griffin 2008, 88).

The standards involved could be surprisingly high. In the *Verrines*, Cicero appeals to the ideal that the allies 'might be most splendid and prosperous under our empire'.³² In his first letter to Quintus, a kind of essay on the 'good governor', Cicero states as a general principle that the interests of the subjects should be the first care of any ruler (*Q. fr.* 1.1.24 SB 1). The 'canonical' virtues of the good governor are directed towards this end: qualities of justice, mildness, and self-control.³³ Meanwhile, a series of increasingly strict laws sought to reinforce the ideal with more concrete sanctions. Romans were willing to sacrifice the property and even the *caput* of other Romans to protect the rights of their allies.

Language, too, reveals much about Roman attitudes to empire, including the existence of overlapping, even inconsistent, conceptions. On the one hand, Cicero could describe the provinces as 'the country estates of the Roman people'.³⁴ Occasionally he speaks of provincials as *stipendiarii*.³⁵ The standard term *socii* ('allies'), on the other hand, conveys a very different message. As Brunt remarks, 'Perhaps the constant use of the term *socii* to describe provincials in itself indicates something about Roman attitudes to them; it could hardly have been totally divested of the nuance imparted by its other senses'.³⁶ Overwhelmingly, Romans described provincials as companions and junior partners in empire—a distinction lost by the common practice of translating *socii* as 'subjects'. Lavan's recent analysis of *socii*, along with *provinciae*, as 'exclusivist' terms which 'implicitly mark off some or all provincials as being a class of imperial subjects' (2013, 245–6) is likewise unsatisfactory. *Socii*, it is true, are distinguished from the Roman state, but the term used is one of partnership rather than subjection. Cicero makes a similar point when he comments that the Roman *imperium* (in its non-degraded form) could more properly have been called a *patrocinium orbis terrae*, invoking a model not

³¹ In particular, Cicero's tendency to avoid structural analysis in favour of a focus on misconduct by individuals that was less likely to offend his audience, including the *equites* to whom he was politically beholden: Steel 2001, esp. 200–2.

³² *Cic. Verr.* 2.4.134: *imperio nostro quam ornatissimi florentissimique essent*. Cf. Vasaly 1993, 120.

³³ Cf. e.g. Brunt 1990, 320–1, who observes that *abstinentia* (and its synonyms) is the most often praised quality of a provincial governor because it was the most lacking.

³⁴ *Cic. Verr.* 2.2.7: *praedia populi Romani*.

³⁵ Usually where he is drawing a distinction between *stipendiarii* and other categories of *socii* (e.g. *Cic. Balb.* 24; *Pis.* 98).

³⁶ Brunt 1990, 319; cf. *OLD socius*² (comrades, business partners, fellow members of a *collegium*, etc.).

of rulers and ruled but of patrons and clients, a more subtly graduated relationship that existed between Roman citizens as well as between Romans and foreigners.³⁷ Pompey, as we shall see, was prepared to include provincials within the *patria* (Plin. *NH* 7.99)—yet he could also boast of the increased revenues his eastern campaigns had brought for Rome, as could Cato of the treasure from Cyprus (Plut. *Cat. Min.* 45.2). As Meyer shows, Romans were capable of viewing their empire at once as *praedia* and as *patrocinium*.³⁸

The efforts at reform addressed in this study operated within this framework. They were not anti-imperialist but sought to realize an ideal of ethical imperialism in the interests of both Rome and the provinces. The lesson Plutarch assigns to Cato's quaestorship—'that the state can be rich without doing wrong'³⁹—applied equally in provincial governance; indeed, one of the most striking aspects of Pompey's and Cato's attitudes to empire is their failure to draw a sharp distinction between citizens and *socii*. On the other hand, serious questions were asked about acquiring new territory or intervening in the affairs of foreign powers, and some of Cato's actions suggest reservations about war that could be considered 'un-Roman'.

Philosophy and Roman imperialism

In seeking to understand Roman ideas of good governance, it is also important to consider the influence of moral philosophy. By the late republic, Hellenistic philosophy had an unmistakable impact on the way Romans spoke and wrote about imperial governance. On the whole, however, modern scholarship has been reluctant to assign philosophical principles any practical influence. The idea of a 'Scipionic circle' under the influence of Panaetius' Stoicism is no longer favoured.⁴⁰ Strasburger, who argued strongly against the 'Scipionenkreis', allows moral philosophy a significant influence on certain individuals but very little on the broader practice of Roman imperialism.⁴¹ Rawson grants that philosophers probably had 'some influence for good', but mainly under the principate.⁴² Griffin, who goes further than most, emphasizes the difficulty of establishing philosophical motivations in any particular case (1989, 22–3). She

³⁷ Cic. *off.* 2.27. *Patrocinium* here means something like 'protectorate'. Cf. e.g. Dyck 1996, 401.

³⁸ Meyer 1957, esp. ch. 6.

³⁹ Plut. *Cat. Min.* 18.2: ὅτι τῇ πόλει πλουτεῖν ἔξεστι μὴ ἀδικούσῃ.

⁴⁰ See e.g. Strasburger 1966; Astin 1967, app. 6.

⁴¹ Strasburger 1965, 51–2: 'such notions of the moral responsibility of the Romans for their subjects, entertained only by a small and uninfluential minority in his [Posidonius'] own time, were realized to a remarkable degree in the administration of the empire in imperial times.' Cf. Walbank 1965, 15–16.

⁴² Rawson 1989, 243, 257. Rawson, Strasburger, and Walbank all reflect the pervasiveness of the 'bad republic/good (better) principate' trope.

makes the point, however, that philosophy provided a language and a framework for articulating moral decisions: 'To write or speak in philosophical terms, even insincerely, is to think in those terms.'⁴³

This study suggests that some Romans consciously applied philosophical principles in the practice of imperialism. Cicero, for instance, though not a Stoic, engaged with imperial problems through a Stoic lens, not only in *De Officiis* but also as governor of Cilicia. I will argue that both the noted Stoic Cato and (directly or indirectly) Pompey as well were influenced by Stoic principles, with results that were sometimes 'un-Roman'. Thus we find Cato opposing wars generally regarded as just and Pompey criticized for pardoning pirates. While the evidence for philosophical influence on Pompey is fainter, the potential impact was considerably more significant. Plutarch makes a similar point in his essay, 'That a philosopher ought to converse particularly with men in power': it is through statesmen, even if not philosophers themselves, that philosophy is able to do the most good (*mor.* 779b). Put another way, more people would notice Pompey's model of imperialism than Cato's.⁴⁴

It is sometimes said that the demands of moral philosophy differed little from traditional Roman *mores*.⁴⁵ But what is most striking about Roman tradition is its militarism, even brutality.⁴⁶ The elder Cato's emphasis on *fides* and frugality, which had the effect of protecting the allies, was directed rather to the welfare of the treasury and the Roman character, while whatever humane concern he might have felt for Rhodes did not extend to Carthage.⁴⁷ Despite Cicero's lampoon of Cato's Stoic rigidity in *Pro Murena*,⁴⁸ there is more evidence of humane feeling in Cato the Stoic than in Cato the Censor. By the period of this study, however, Roman thinking on imperial governance was extensively 'philosophized': ideas such as *temperantia* and *humanitas* supplement, or even supplant, native virtues, and public oratory could appeal to a model of benevolent rule not merely on utilitarian grounds but as an ethical ideal. The result was standards of good governance that sometimes went beyond traditional *mores*. Indeed, *mos maiorum* itself was modified, so that the 'just war' tradition Cicero describes in *De Republica* and *De Officiis* is in fact a fusion of fetial ritual and Greek philosophy.⁴⁹ Possibly these

⁴³ Griffin 1989, 33–7. The quotation is at 36.

⁴⁴ Cf. Rawson 1989, 240.

⁴⁵ e.g. Afzelius 1941, 116.

⁴⁶ See e.g. Brunt 1990, 291–3 on Roman militarism and Rosenstein 2012, ch. 6 on the brutality of Roman imperialism in the second century. We can detect some rewriting of the *maiores* in the late republic; nonetheless, Cicero could not justify the destruction of Corinth (*off.* 1.35, 3.46).

⁴⁷ According to Gell. 6.3.52, Cato appealed to *clementia* and *mansuetudo* in urging the senate not to make war on Rhodes, but Gellius makes clear that Cato was trying every trick in the book. Compare e.g. Plut. *Cat. Mai.* 26–7.1 on Carthage. However, Cato's speech does suggest that some senators in this period were influenced by ethical arguments (Haffter 1940; Astin 1978, 281).

⁴⁸ Cic. *Mur.* 66; cf. May 1988, 65.

⁴⁹ See e.g. Brunt 1990, 305–8; Griffin 2008, 87; Ager 2009, 19; Rich 2011, esp. 232, 235. Even so, its demands are fairly limited and legalistic.

developments were prompted, in part, by Carneades' lectures in 155 and subsequent attempts to justify the possession of empire in philosophical terms.⁵⁰ In any case the effects were pervasive, so that Romans of the late republic might apply precepts of moral philosophy without realizing they were doing it.

Philosophical and ethical arguments could also be combined with considerations of self-interest, insofar as sustainable empire presupposed a reasonable standard of treatment. Cicero allows for both perspectives in the *Verrines*, when he asks the jurors, 'if you pay no heed to the fortunes of the Sicilians, if you are not worried by the manner in which allies of the Roman people are treated by our magistrates, then take up and defend the common cause of the Roman people'.⁵¹ Verres' actions, he explains elsewhere, had brought short-term gain at the expense of the long-term viability of Rome's food supply (*Verr.* 2.3.43). Later, the *princeps* Tiberius would make a similar point when he commented, in arguing against excessive taxation, that 'a good shepherd should shear his sheep, not skin it', thus neatly combining the philosophical conception of good ruler as good shepherd with a gritty argument for sustainable exploitation.⁵² The protagonists of this study, I argue, proposed higher standards; standards that urged good governance in the interests of provincials, not merely Roman self-interest. But self-interest did provide useful leverage for ethical reform.⁵³ In Stoic terms, the *honestum* and the *utile* were identical.

PROVINCIAL REFORM BEFORE 70

This study examines efforts in the period 70–50 to bring the practice of provincial governance closer to the ideal. Such efforts were not new. The example of Cato the Censor, whose career fell early in the period of extra-Italian expansion, shows that empire and concern about the problems of empire grew together. Cato believed strongly in Rome's right to possess an empire and to profit from it. Thus he called Sicily the storehouse and wet nurse of the republic (*Cic. Verr.* 2.2.5) and proclaimed in Spain that 'war feeds

⁵⁰ See e.g. Erskine 1990, ch. 8; Walbank 1965, 13–14; Griffin 2008, 94–5. Cato the Censor's response suggests real unease (*Plin. NH* 7.112; *Plut. Cat. Mai.* 22.4). 'Laelius' justification of empire in *Cic. rep.* 3 is widely regarded as a Panaetian response to Carneades' arguments (see chapter 3, n. 5).

⁵¹ *Cic. Verr.* 2.3.122: *si Siculorum fortunas neglegitis, si quem ad modum socii populi Romani a magistratibus nostris tractentur non laboratis, at vos communem populi Romani causam suscipite atque defendite.*

⁵² *Suet. Tib.* 32.2: *boni pastoris esse tondere pecus, non deglubere.* Cf. *Dio* 57.10.5.

⁵³ Cf. Dyck 1996, 354, who ascribes such an aim to the Stoic Panaetius.

itself'.⁵⁴ However, he had equally strong views about how empire should be acquired and exploited, which he sought to enforce as censor, as an advocate for the allies, and through his personal example. His *De Sumptu Suo*, for instance, denounced profiteering officials, and in 149, the year of his death, Cato famously spoke against Ser. Sulpicius Galba, who had massacred thousands of Lusitanians contrary to *fides*.⁵⁵ Further, by publishing this and many other speeches, Cato transmitted *exempla* of appropriate behaviour to his contemporaries and to posterity. What is harder to find, as I have noted, are expressions of 'humanitarian' concern.

149 was also the year that the *lex Calpurnia de pecuniis repetundis* was passed, establishing, for the first time, a permanent forum in which victims of extortion by Roman magistrates could recover their property. It is striking that Rome's first standing court was an extortion court. A series of laws followed, each stricter than the last and more complex. Under some of these, citizenship was offered as a reward for successful prosecution; later, it seems, capital penalties became available.⁵⁶ Meanwhile, a body of positive regulations developed which prescribed in detail the rights and obligations of a provincial governor. Many of these rules were eventually incorporated in the *lex repetundarum*, so that the law became not simply a mechanism for recovering property but a comprehensive charter for magistrates in the provinces. There is no reason to doubt that these laws were intended, from the outset, for the benefit of provincials and, if enforced, would have provided significant protection. Indeed, by the period of this study, the extortion law was only a starting point in the attempt to control corruption, not in itself a solution. Enforcement remained a problem—an illustration of the gap between community standards and individual behaviour—but a problem that was recognized. According to Appian (*BC* 1.22), C. Gracchus' law replacing senatorial jurors with *equites* was justified by reference to a series of scandalous acquittals in extortion trials.⁵⁷

While much legislation against extortion was passed by tribunes, we should not overlook a strong tradition of 'optimate reformers'.⁵⁸ Fighting provincial corruption was, so to speak, a 'bipartisan' issue. Even Sulla, better known for

⁵⁴ Liv. 34.9.12: *bellum . . . se ipsum alet*.

⁵⁵ *De Sumptu Suo*: Front. *ep. ad Ant.* 1.2.9. Galba: Cic. *Brut.* 80, 89; Val. Max. 8.1.2. Cf. e.g. Liv. 32.27.4, 39.42–3, 43.2; Plut. *Cat. Mai.* 6.1–2.

⁵⁶ Citizenship: *lex rep.* (RS no. 1) ll. 76–8; Cic. *Balb.* 54. Capital penalties: see chapter 4, 'Capital penalties'.

⁵⁷ Although the ensuing tussle over the courts was highly politicized, the need for effective courts was common ground.

⁵⁸ Note, for example, the praetorian law regulating magistrates in the provinces passed by an M. Porcius Cato in the late second century, the consular law (probably an extortion law) of Q. Servilius Caepio in 106, and M. Livius Drusus' judiciary measure, which he presented as benefiting the provinces (Diod. 37.10.3 with Morrell 2015, 238, 248–9).

his harsh treatment of Asia in the Mithridatic war, was responsible for important developments in the *repetundae* and *maiestas* laws as well as attempts at reform and integration in the eastern empire that endured well beyond his lifetime.⁵⁹ It is worth noting that the humane Lucullus claimed to be emulating Sulla in his efforts to save the city of Amisus (Plut. *Luc.* 19.4–5) and that, when Pompey levied a fleet from the Asian cities, he followed Sulla's model in distributing the financial burden (Cic. *Flacc.* 32). Perhaps most significantly, Sulla's reforms (not only his extortion law, but also his *maiestas* law, changes to the *cursus honorum*, and to jury service) show thinking about the problems of provincial governance as part of a larger system, however flawed his solutions may have been.⁶⁰ As we shall see, this more holistic approach is also a hallmark of the late 50s.

Also important are the efforts of individuals in the provinces to protect the welfare of the allies and to set an example for others. Cato the Censor has been noted already. C. Gracchus, too, seems to have made an example of his own restraint.⁶¹ Particularly significant, for present purposes, is the Asian mission of Q. Mucius Scaevola 'the Pontifex' and P. Rutilius Rufus during the 90s, which seems to reflect the increasing influence of moral philosophy, and later served as a model for Cicero and others.⁶² Scaevola appears to have gone to his province with the intention of reforming not only the government of Asia but the behaviour of magistrates in the provinces more generally.⁶³ The particular challenge he faced, Diodorus (37.5.1) tells us, was complicity between *publicani* and governors fearful of equestrian juries. Scaevola's solution combined new legal protections for provincials with a programme of ethical governance.⁶⁴ One key innovation was a term in his edict rendering unenforceable contracts made contrary to the requirements of *bona fides*.⁶⁵ This applied to the *pactiones* of the tax farmers no less than other contracts, and thus provided an important safeguard for provincials. Equally significant (and unusual) was Scaevola's willingness to *enforce* the law, so earning the ire of the *publicani*.⁶⁶ At the same time, Scaevola strove to set an example of moral excellence and restraint

⁵⁹ See Santangelo 2007a, esp. part 1, ch. 2. Santangelo would distinguish between Sulla's vision of empire and decisions taken on account of his military requirements (126).

⁶⁰ See e.g. Hantos 1988, esp. 18 and 89–120; Brennan 2000, 388–400. Cf. Santangelo 2007a, 225 on Sulla's understanding of the 'increasing interdependence within the empire'.

⁶¹ Gell. 15.12; Plut. *C. Gracch.* 2.1, 2.5; cf. 6.2.

⁶² Rutilius was one of Rome's most famous Stoics (e.g. Cic. *Brut.* 114). On the vexed question of the date, see e.g. Ferrary 2000 (arguing for 99–97) and Brennan 2000, 551–2 (favouring 94), with further references.

⁶³ Diod. 37.5.1; cf. 37.4; Val. Max. 8.15.6.

⁶⁴ Cf. e.g. Badian 1956, 112–17; Brennan 2000, 550.

⁶⁵ Cic. *Att.* 6.1.15 SB 115; Bauman 1983, 383–4.

⁶⁶ Diod. 37.5.1–2; Cic. *Planc.* 33; *fam.* 1.9.26 SB 20. Unlike Rutilius, however, Scaevola was not prosecuted.

(Diod. 37.5.2); indeed, Scaevola went beyond what law or *mores* required by personally paying the expenses of himself and his staff.⁶⁷

According to Diodorus, Scaevola's wisdom, virtue, and the assistance he had rendered the province 'redeemed the hatred that had existed against the ruling power'.⁶⁸ Asia celebrated him with games and quasi-divine honours,⁶⁹ and the senate decreed him a 'model and pattern of office' (*exemplum atque normam officii*) for future governors (Val. Max. 8.15.6).⁷⁰ All this is the more significant in view of growing concern about Mithridates during the 90s.⁷¹ It seems possible that Scaevola and Rutilius had gone to the east with the object of forestalling the sort of situation that occurred in 88, when Mithridates was able to seize the province of Asia and murder reportedly 80,000 Romans and Italians with the willing participation of cities worn down by Roman rule.⁷² The grievances Mithridates exploited in Asia were precisely those Scaevola and Rutilius had sought to address, and there is evidence the king was already appealing to Asia in those terms when Scaevola set out for his province.⁷³ But Rutilius' conviction derailed the reform attempt by deterring other governors from standing up to the *publicani*.⁷⁴ Conditions in Asia deteriorated again to the point where the province turned to Mithridates as saviour and liberator, and the Mithridatic war followed.⁷⁵ The lesson was not lost on the reformers of the 50s.

What Scaevola sought to prevent L. Licinius Lucullus sought to repair. As commander against Mithridates in the 70s, Lucullus made it his business to solve the debt crisis in Asia created by the Sullan indemnity (Plut. *Luc.* 20) and to reclaim the allies' good will by his policy of 'showing kindness to the

⁶⁷ Diod. 37.5.1, 4. He did requisition grain, however: Cic. *Verr.* 2.3.209. For Scaevola's virtues (qualities of justice, purity, moderation, etc.), see e.g. Diod. 37.5.1–2, 37.6; Cic. *Verr.* 2.2.27; *Planc.* 33.

⁶⁸ Diod. 37.6: τὸ προϋπάρχον εἰς τὴν ἡγεμονίαν μῖσος... διωρθώσαντο.

⁶⁹ *OGIS* 438; Cic. *Verr.* 2.2.51; Diod. 37.6.1.

⁷⁰ L. Sempronius Asellio in Sicily seems to have been an early imitator (Diod. 37.8.1; Brennan 2000, 550).

⁷¹ See e.g. Plut. *Mar.* 31.1; *Sull.* 5.3; Sherwin-White 1977, 72; Glew 1978, 390–1; McGing 1986, 84; Hind 1992; 142.

⁷² Cf. Gruen 1968, 204–5; Badian 1956. On the massacre, see e.g. App. *Mith.* 22–3; Cic. *leg. Man.* 7; Memn. 22.9; Diod. 37.26.

⁷³ See e.g. Just. *ep. Trog.* 38.7.8; App. *Mith.* 16; McGing 1986, 89–108.

⁷⁴ Cic. *Verr.* 2.3.94; cf. Gruen 1968, 204–5; Kallet-Marx 1990, 138. Rutilius was condemned by an equestrian jury because he had protected Asia against the injustices of the tax farmers (Liv. *per.* 70; other sources in *TLRR* no. 94). Asc. 21C and Cic. *off.* 2.75 attest the fear of the courts that resulted. Tellingly, Rutilius went to live in honourable exile among his supposed victims (Val. Max. 2.10.5; Sen. *ben.* 5.17.2).

⁷⁵ We have little firm evidence for the governors of Asia in this period, but note L. Valerius Flaccus (cos. suff. 86), who governed Asia probably between 92–90 and was subsequently prosecuted for extortion (see *TLRR* no. 91; Brennan 2000, 552–5).

Greeks'.⁷⁶ The financial reforms Lucullus put in place in 71–70 enabled the cities to repay their debts within four years, earning him the enmity of *equites* and the affection of the province in the process.⁷⁷ Also important were Lucullus' moral qualities. Various sources attest his efforts to minimize bloodshed, and the mercy and liberality he showed to the defeated.⁷⁸ Indeed, Plutarch comments that Lucullus' *δικαιοσύνη* and *φιλανθρωπία* enabled him to subdue foreign peoples without resort to arms.⁷⁹

Like Scaevola, Lucullus' efforts were recognized in the province with honorific inscriptions and games.⁸⁰ In Rome, appreciation was dampened or obscured by the hostility of *equites* and tribunes (Plut. *Luc.* 20.5, 24.3; *Cat. Min.* 29.3). In the 60s, it was obscured further by rivalry with Pompey. Lucullus and Pompey competed not only over the eastern settlement but in ethical reputation: for instance, Cicero's *Pro Lege Manilia* claimed for Pompey many qualities that Plutarch attributes to Lucullus.⁸¹ Tellingly, however, Lucullus' reforms in Asia were retained, despite the equestrians' disgruntlement: Cicero (*acad.* 2.3) states that Lucullus showed such *prudencia* and *aequitas* that the province continued to be administered on the basis of his arrangements twenty years later.

Besides Pompey's rivalry with Lucullus, these earlier reform attempts can be seen to have influenced and informed efforts in 70–50 in various ways. The last republican extortion law, the *lex Julia de pecuniis repetundis* of 59, was an evolutionary rather than a revolutionary step in the regulation of magistrates abroad, while ongoing experiments with jury composition attempted to address the problem of enforcement. It was increasingly clear, however, that criminal sanctions in themselves were inadequate to control corruption and exploitation. Other strategies were explored, such as show trials and role-modelling. The younger Cato's self-consciously exemplary conduct in Cyprus, for example, may have taken its cue from Cato the Censor, or perhaps from Scaevola and Rutilius, as Cicero's government of Cilicia certainly did. But I will suggest that the reform programme pursued jointly by Pompey and Cato in 52–50 went beyond previous efforts in combining ethical reform with major structural change.

⁷⁶ Plut. *Luc.* 32.5: *χρηστότητος ἐπίδειξεν πρὸς τοὺς Ἕλληνας*. Cf. e.g. Cobban 1935, esp. ch. 4 and 195–8; McDougall 1991. McDougall also rightly notes continuity between Lucullus' policy and Pompey's.

⁷⁷ Cf. Plut. *Luc.* 20.3–5, 23.1; cf. 7.5–6.

⁷⁸ See e.g. Plut. *Luc.* 18.1, 23.3, 29.4; App. *Mith.* 83; Memn. 30.4, 37.8.

⁷⁹ Plut. *Luc.* 29.5. This is also a theme in the source tradition on Pompey's eastern campaigns (see chapter 2).

⁸⁰ Inscriptions: examples in Ameling 1989, 99–100. Games: Plut. *Luc.* 23.1; App. *Mith.* 76.

⁸¹ Compare e.g. Plut. *Luc.* 33.3–4 and Cic. *leg. Man.* 37–9 on quartering troops. Cf. Tröster 2008, ch. 3, who argues that the trope of Lucullus' luxury is largely a product of Pompeian propaganda.

SOURCES AND SCHOLARSHIP

The principal sources for this study are the standard ones for the period: the contemporary evidence of Cicero and later Greek narratives (especially Plutarch's *Lives* and Cassius Dio), supplemented by a wide range of literary sources of varying date and quality, and some epigraphic evidence. We are much better informed about some events than others. At points Cicero's letters or Asconius' commentaries provide an almost day-by-day account. In particular, we are fortunate to have letters—many from Cicero, one from Cato—directly relevant to the reform project of 52–50, and I will argue that some of Pompey's thinking, and occasionally his own words, can be reconstructed from other sources. For other events, we must make do with the merest scraps. A case in point is the aftermath of the battle of Carrhae, where Lucan's epic poem and Orosius' late history must be pressed into service.

Besides the usual problems of accuracy and completeness, the authors present particular challenges related to their very different contexts and agendas. Cicero, our most important source, was almost always well informed and often a participant in the events in question—yet, partly for that reason, he is not always entirely reliable. He makes very different statements about foreign witnesses, for example, depending on the forensic context, and about individuals, depending on whom he is writing to. Cicero's estimate of Pompey is particularly mercurial: he is sometimes a second Scipio, sometimes a would-be Sulla, sometimes a fool. His assessments of Cato are similarly variable. Indeed, Cicero's evidence on questions of imperial governance occasionally seems skewed by what we might call professional or 'ethical' envy: the consciousness that he did not quite measure up to Cato's ethical standards.

A related problem is Cicero's dominance of scholarly thinking on provincial governance, in part due to his dominance of the historical record. It is impossible to write about this or any other topic in the late republic without writing about Cicero. But it does not follow that he was the most committed of his contemporaries to protecting provincials, or even the most interested. I have noted already that the ethical framework of Cicero's speeches must correspond to commonly held views; in private letters his attitude varies with the recipient and with Cicero's purpose.⁸² Neither were his philosophical works written in a vacuum, but in dialogue with other authors and contemporary ideas. *De Legibus*, for instance, reflects the provincial reform project of 52–50, while in *De Officiis* we see Cicero not only engaging with Panaetius but competing with the dead Cato for the mantle of friend of the allies (3.88). That is not to deny the presence of original reflections and genuine interest in the fair treatment of provincials, but my intention here is to shine the spotlight on

⁸² Compare e.g. Cicero's long letter to Cato seeking support for his *supplicatio* (*fam.* 15.4 SB 110) with the straightforward requests sent to other senators (*fam.* 15.10 SB 108, 15.13 SB 109).

others rather than contribute to the extensive literature on Cicero's thinking about empire.⁸³

In this study I treat Cicero largely as a conduit whose writings reveal the ideas and agendas of others. In his letters to Cato, for instance, we can observe Cicero accommodating himself to Cato's ethical framework, while *Pro Lege Manilia* presents Pompey as Pompey wished to be seen. At other points Cicero appears as an active participant in the reform efforts under consideration. His excoriation of Verres, I argue, was undertaken at least partly in service of Pompey's programme of provincial reform. Similarly, his self-consciously exemplary administration of Cilicia is of central importance in understanding the reform project of 52–50. But, while that project coincided with Cicero's own interests and prior commitment to ethical governance, it was not ultimately his project. Furthermore, Cicero's susceptibility to pressure from the *equites* and from individuals like Ap. Claudius and M. Brutus casts doubt on the strength of his commitment in practice—indeed, Cicero was not above profiting from C. Antonius' questionable activities in Macedonia, if he could do so with impunity (Cic. *Att.* 1.12.1–2 SB 12).

Another key source is Plutarch, who wrote much later and presents a different set of problems. The *Lives*, he himself tells us, are works not of history but of biography (*Alex.* 1), and biography with an overt moral agenda.⁸⁴ Plutarch's *Cato*, for instance, is in part an illustration of virtue too rigid for its times; the *Pompey* of the dangers of excessive desire for glory.⁸⁵ But Plutarch was also a perceptive writer working from a large range of quality sources no longer available to us, including the contemporary evidence of Munatius Rufus on Cato (probably via Thræsea Paetus) and Theophanes on Pompey.⁸⁶ Plutarch might at times reorder, conflate, or omit events (Pelling 2002, ch. 4), and we must be circumspect regarding the attitudes and motivations he attributes to his subjects,⁸⁷ but he generally did not fabricate facts (Pelling 2002, ch. 6). Indeed, Plutarch's *Life of Cato* sometimes tells us the most when we read against the grain.

I have noted the tendency of Cato's admirers to obscure Cato the politician. This is particularly true of Plutarch (or the tradition he represents), who stresses Cato's independence sometimes in the face of his own evidence. A good example is the meeting between Pompey and Cato at Ephesus in 66

⁸³ Specialized studies include Meyer 1957 and Steel 2001; discussions appear also in innumerable other works.

⁸⁴ See esp. Plut. *Per.* 1–2; cf. e.g. Duff 1999; Pelling 2002, ch. 10. The distinction between biography and history is not clear-cut, however.

⁸⁵ Cato: see e.g. Plut. *Phoc.* 3.1–2; Swain 1990, 197–201; Duff 1999, ch. 5. Pompey: e.g. de Wet 1981; Duff 1996; Stadter 2014, 281.

⁸⁶ See Heftner 1995, 44–62 and de Wet 1981 on the *Pompey*; Geiger 1971, ch. 3 and 1979; Fehrlé 1983, ch. 1 on the *Cato*.

⁸⁷ See e.g. Verdegem 2010, 62–3 and, on the *Cato* specifically, Afzelius 1941, 110–11.

(Plut. *Cat. Min.* 14.1–3). Cato came to pay his respects and Pompey received him with honour and affection. But this was all show, Plutarch claims: it was no secret that Pompey's attentions were flattery rather than a show of real regard, and that he was happy when Cato went on his way (14.2). Plutarch contradicts himself, however, for he says that Pompey honoured Cato more after he had gone; he also notes Cato's *συγγένεια* (kinship) with Pompey's wife and children (14.3). It seems, therefore, that Plutarch or his source has shaped the story in line with Cato's later opposition to Pompey and the theme of Cato's virtue as a source of shame to others.⁸⁸

Elsewhere the facts themselves are managed to fit the theme of Cato's splendid isolation. This is apparent in Plutarch's account of 53. The *Life of Pompey* states that, when Pompey disclaimed any desire for the dictatorship, 'Cato applauded Pompey and urged him to take charge of orderly behaviour'.⁸⁹ Read with Dio (40.46.1), this suggests that Cato played a role in having Pompey called in to hold the elections. The story is omitted in the *Cato*, however, where Cato merely accuses Pompey of 'seeking monarchy for himself by means of anarchy'.⁹⁰ Plutarch's account of 52 is similarly coloured. However, if we focus on the protagonists' actions, rather than the narrative framing, we find important evidence of cooperation between Pompey and Cato not only in the creation of Pompey's sole consulship but in his legislative programme.⁹¹ This has significant implications for our understanding of the provincial reform effort of 52–50.

Other later or less careful sources are not inherently unreliable; indeed, given their distance from the events in question, later writers generally had less motivation than contemporary sources for invention or distortion. Lintott (1997) urges caution in using Cassius Dio's evidence, but while Dio is sometimes guilty of chronological confusion, false inferences, and biases absorbed from his sources, elsewhere his information is sound and detailed, and there is no reason to think he deliberately misrepresented facts; moreover, he is often the only source we have for important events. My practice, therefore, is to use Dio's evidence, where we have no reason to discount it, and to ask, where the information is suspect, how that confusion might have come about. Similarly, Appian often tells us more for the fact that he has failed to reconcile the conflicting information or attitudes that he found in his sources, thus

⁸⁸ Compare esp. Plut. *Cat. Min.* 45.1; cf. 16.5, 19.3, 33.2. Indeed, the sentiments Plutarch imputes to Pompey are anachronistic for 66, prior to Cato's intervention in the Catilinarian debate and his clash with Metellus Nepos: it is hard to imagine Pompey feeling threatened by the sub-quaestorian Cato.

⁸⁹ Plut. *Pomp.* 54.3: *Κάτωνος δὲ Πομπηϊῶν ἐπαινέσαντος καὶ προτρεψαμένου τῆς εὐκοσμίας ἐπιμεληθῆναι.*

⁹⁰ Plut. *Cat. Min.* 45.4: *δι' ἀναρχίας μοναρχίαν ἑαυτῷ μνηστευόμενος.*

⁹¹ Plut. *Cat. Min.* 47–8; *Pomp.* 54. See chapter 7, 'Pompey's legislation'.

preserving contemporary or near-contemporary material otherwise lost to us (as a recent study suggests).⁹²

The modern literature on the period is obviously vast, yet there is little that deals specifically with the themes of this study. As I noted earlier, older treatments take a generally dim view of republican provincial governance. Among more recent works, Lintott (1993) and Schulz (1997) seek primarily to describe systems and practices rather than to engage closely with Roman thinking about governance or attempts to reform it, while Steel's focus (2001) is on the rhetoric rather than the practice of imperialism; moreover, her analysis of Pompey's and Cato's views on empire as discrete 'alternative strategies' (ch. 5.2) marks a fundamental point of difference from the present work. Other important studies, too numerous to mention here, are restricted to particular aspects of this inquiry, such as trials, legislation, and foreign policy.

Some dominant themes in scholarship on Pompey and Cato have been noted already. More thoroughgoing studies include Gelzer (1984) and Seager (2002) on Pompey and Fehrle (1983) on Cato. Political biography is not, however, an ideal medium through which to explore attempts at systemic reform (and neither does the present book purport to offer a biographical study of either protagonist). A more useful approach is that of Gruen's *The Last Generation of the Roman Republic*, a study resonant with my own in acknowledging a will to reform among the senatorial order and in treating the Roman republic as a viable institution, even on the eve of civil war. Crawford (1976) described Gruen's book as 'Hamlet without the prince' in part for its deliberate exclusion of any systematic discussion of provincial administration (Gruen 1974, 4). By honing in on the question of provincial reform, I hope, in a sense, to have supplied the prince, while breaking away from the factional approach to Roman politics to reveal productive cooperation between Pompey and Cato.

OVERVIEW

This book is arranged thematically within a broadly chronological scheme. The first three chapters explore Pompey's and then Cato's independent involvement in the sphere of provincial government, followed by two chapters on developments in the *lex repetundarum*, before the final three chapters detail the context, aims, and legislative framework of the provincial reform project pursued jointly by Pompey, Cato, and others in 52–50.

⁹² Welch 2015, esp. the chapters by Hopwood, Morrell, Rich, Stone, Tweedie, and Welch.

Chapter 1 explores the programme Pompey implemented as consul in 70 to address the related problems of exploitation in the provinces and corruption in the courts. I suggest that Pompey probably did not intend to change the composition of juries. Instead, his solution consisted of the election of censors to remove the senate's most corrupt members; a call for stricter trials, starting with the 'show trial' of C. Verres; and the promotion of better standards of provincial governance. The key evidence comes from Cicero's *Verrines*: I argue that Pompey backed the prosecution of Verres not only for the sake of his Sicilian clients but also as part of his broader programme for the provinces, and that Cicero's speeches reflect Pompey's policy. Pompey's refusal of his consular province and legislation put in place by the tribunes of 67 can also be understood in connection with Pompey's reform programme.

Chapter 2 examines Pompey's eastern campaigns and the ideal of ethical imperialism he sought to embody. The emphasis on moral virtue even above martial qualities familiar from *Pro Lege Manilia* appears also in accounts of the pirate war, the Mithridatic campaign, and Pompey's triumph. Pompey consistently demonstrated a preference for bloodless victories and humane treatment that extended even to pirates, while his financial organization of the east, though it brought great profits to Rome and to Pompey himself, accorded with Roman 'best practice' and does not negate his ethical achievement in other areas. Finally, I consider possible Stoic (particularly Posidonian) influences on Pompey and argue that he pursued a 'cosmopolitan' vision of empire that, if not influenced by Stoicism, had much in common with it.

Chapter 3 turns to Cato and a closer study of the influence of Stoic ideas on Roman imperialism. I argue for a direct connection between Cato's philosophy and his political thinking; most strikingly, his Stoic concept of the equality of human beings imposed standards of conduct towards enemies and allies that sometimes went beyond Roman *mores*. The chapter includes an analysis of Cato's letter to Cicero as a Stoic document and highlights the inseparability of provinces and *res publica* in Cato's thought. His Cyprus mission affords a case study of how he applied these principles in practice, and one which Cato himself actively promoted as an example for others. Finally, a discussion of the 'Egyptian question' in the 50s illustrates the interest of Cato and his friends in major foreign policy questions.

Chapter 4 considers the context and content of the *lex Julia de pecuniis repetundis* of 59. Cicero describes it as a 'perfect law' and it remained in force for centuries, but its innovations should not be exaggerated. The *lex Julia* was the last in a long series of republican extortion laws and many of its important features, such as the detailed prescription of a governor's entitlements and the inclusion of *maiestas*-type offences, had precursors in earlier legislation. Neither should the law be seen as solely Caesar's project. I draw a link between the *lex Julia* of 59, the trials of C. Antonius and L. Flaccus the same year, and Pompey's longstanding interest in provincial reform. Indeed, even Caesar's

opponent Cato seems to have helped shape the new law, which incorporated regulations laid down by the senate the previous year on Cato's initiative.

The 'perfect' *lex Julia* was not without shortcomings. Above all, it applied only to senators and not to the various equestrian members of a governor's staff who might equally be guilty of extortion. Chapter 5 explores Pompey's unsuccessful attempt to rectify that deficiency during his second consulship in 55. The attempt was unpopular, but had the vigorous support of a few senators whom I identify as Cato and friends. Indeed, I argue that Cato revived the attempt by back-door means when, as praetor in 54, he facilitated the trial of C. Rabirius Postumus on grounds that had more to do with *repetundae* proper (and larger concerns about Roman dealings with Egypt) than with the recovery provision under which he was charged. In the process, I offer a detailed discussion of the dating of Gabinius' and Rabirius' trials.

Chapter 6 examines the aftermath of M. Crassus' defeat in Parthia in 53. The Parthian threat was real, as was the defence response, but there was no move to avenge Crassus in these years. On the contrary, Rome disowned Crassus' aggressive campaign while embracing principles of ethical governance long advocated by Pompey and Cato. The challenge Rome faced was as much internal as external in that endemic misgovernment, combined with a blow to Roman military supremacy, created the threat of rebellion within Roman provinces. We therefore find C. Cassius, Cicero, and M. Bibulus striving not only to defend against Parthian attack but also to secure the loyalty of the allies by means of fair and upright governance. In this way, Crassus' defeat provided the catalyst for an ongoing programme of provincial reform. Another product was the *senatus consultum* of 53, passed probably with Cato's backing, which became the *lex Pompeia* of 52.

Chapter 7 presents a detailed analysis of the *lex Pompeia de provinciis* and its political context. I argue for real cooperation between Pompey and Cato in 52. Cato was instrumental in creating Pompey's sole consulship and Milo's trial shows that cooperation continued. One product was the *lex Pompeia*. It should be seen not just as an anti-*ambitus* measure but as a far-sighted provincial reform which transformed the way in which provincial commands were created and conceptualized. Besides requiring an interval between magistracy and promagistracy, the law gave the senate much greater control over provincial appointments and provided the framework for a policy of provincial governance closely associated with Cato.

Chapter 8 examines what Cicero calls 'Cato's policy'—that is, a policy of ethical governance designed to secure the welfare and good will of Rome's allies. I argue that all governors appointed under the *lex Pompeia* were engaged in this project, which entailed not only ethical governance but consciously exemplary behaviour. Finally, I return to Cato's letter to Cicero in the light of Cato's policy: when Cato speaks of Cicero's *maiestas*, he is invoking a particularly Stoic concept of 'true glory' due to moral excellence.

A similar idea appears in the roughly contemporary *De Legibus*. Both, I suggest, reflect the ideology of the reform programme of 52–50, which aimed to promote good governance by making a reputation for moral excellence desirable in its own right.

The outbreak of civil war in 49 cut short the reform project. It is therefore difficult to assess how successful these efforts might have been. It says something, however, that the *lex Pompeia* was ‘revived’ by Augustus as the basis of his arrangements for the public provinces. This afterlife of the reform project is sketched briefly in the conclusion, as are some broader implications of my study for our understanding of the Roman republic.

Pompey and the reforms of 70

As consul-elect in 71, Pompey promised to address the related problems of provincial and judicial corruption. There is reason to think that the welfare of the provinces was his primary concern, and that he sought a solution not in judiciary reform but in a combination of rigorous censorship, stricter trials, and an appeal for a new ethos of provincial governance. Key to understanding Pompey's objectives is the trial of C. Verres, the notoriously corrupt governor of Sicily prosecuted for extortion by Cicero in 70. Not only do the *Verrines* provide the vast bulk of our evidence; the trial itself formed an important part of Pompey's programme. Pompey, I argue, backed the prosecution from behind the scenes, partly for the sake of his Sicilian clients but also by way of a 'show trial' that would serve the interests of his broader reform project. The published *Verrines* continued that project by disseminating negative and positive *exempla* of provincial governance. Meanwhile censors were elected to purge the senate, and thus the judicial *album*, of its most dishonest members, and the best-known act of Pompey's consulship, the restoration of the tribunes' powers, also furthered the cause of provincial reform by facilitating salutary legislation passed by Pompeian tribunes in 67.

POMPEY'S PROGRAMME

Ipse denique Cn. Pompeius cum primum contionem ad urbem consul designatus habuit, ubi, id quod maxime expectari videbatur, ostendit se tribuniciam potestatem restitutum, factus est in eo strepitus et grata contionis admurmuratio. Idem in eadem contione cum dixisset populas vexatasque esse provincias, iudicia autem turpia ac flagitiosa fieri; ei rei se providere ac consulere velle; tum vero non strepitu, sed maximo clamore suam populus Romanus significavit voluntatem. (Cic. *Verr.* 1.45)

Finally, when Cn. Pompeius himself first held a *contio* near the city as consul-elect, where, in accordance with what seemed to be most greatly expected, he indicated that he would restore the tribunician power, the

result was noise and the grateful murmuring of the assembly. Yet when he said, in the same *contio*, that the provinces had been ravaged and abused, and that the courts were behaving scandalously and disgracefully, and that he intended to see to and take care of this matter, then truly it was not with a noise but with the greatest clamour that the Roman people signified its approbation.

The emphasis on the provinces in Pompey's programme is immediately striking. Griffin suggests that 'Pompey's concern with provincial government was probably prior to and responsible for his interest in the courts', and that the election of censors was connected with this programme.¹ Her suggestion is borne out, as we shall see, in Pompey's actions as consul. At the very least, his *contio* speech shows that Pompey regarded the courts and the provinces as two parts of the same problem (*ea res*).

Cicero linked the courts and the provinces in the same way at Verres' trial. At the opening of the first *actio* he refers to the belief, common not only in Rome but among foreign peoples (*exterae nationes*), that 'in these courts, as they are now, it is not possible for a wealthy man to be convicted, however guilty he may be'.² The source of that wealth, Cicero makes clear, is extortion in the provinces (1.4–5). The idea is expressed vividly in Verres' supposed claim to have made his first year's profit for himself, the second for his friends and advocates, and the third, the richest of all, for his judges (1.40). Indeed, says Cicero, the point has almost come where the allies might be better off without an extortion court, since they could sustain the exactions of greedy governors, but not also the cost of their acquittal (1.41–2).

This theme appears still more strongly in the second *actio*, which Cicero published as if he had delivered it, though in fact Verres had already gone into voluntary exile. Cicero imagines the advocates of judiciary reform arguing that there was a 'senatorial' method of extorting money from the allies common to the whole order, and that senatorial jurors would never convict bad governors, lest they lose their licence to do wrong themselves (2.3.224). Faced with such an argument, Cicero asks, who would be so devoted to the senatorial order as to object to the transfer of the courts? In fact, by the time the speech was published, jury reform was a *fait accompli*.³ Thus Cicero's appeal to the jurors to convict Verres and avoid the transfer of the courts is, at its core, an appeal for fairer provincial governance—one point on which Cicero, when he came to publish the speeches, could still hope to make a difference.

Indeed, even the long-awaited restoration of the tribunes' powers was tied to the question of the provinces. According to Cicero, Pompey's promise to

¹ Griffin 1973a, 204; cf. 208.

² Cic. Verr. 1.1: *his iudiciis quae nunc sunt pecuniosum hominem, quamvis sit nocens, neminem posse damnari*.

³ That is, the *lex Aurelia* had already been passed (n. 88).

take action on the courts and the provinces was received more enthusiastically than his promise to restore the tribunes' powers (*Verr.* 1.45); Q. Lutatius Catulus declared, when called upon by Pompey, that if senatorial juries had upheld the good name of the Roman people, the tribunician powers would not have been so keenly missed (1.44); and Cicero made much the same point in the *divinatio* (8).⁴ Exactly how the tribunes were supposed to combat corruption is not specified, but it is likely Pompey, at least, was thinking of legislation: there was a tradition of tribunician legislation in the interests of provincials, and in the years following 70 we find Pompeian tribunes sponsoring laws for the protection of foreigners.⁵

The tribunician powers were duly restored early in 70. Pompey himself brought the motion before the senate.⁶ No law was passed on the provinces, and it was not a *lex Pompeia* but a *lex Aurelia*, much later in the year, that reformed the courts. But Pompey's other promises did not fall by the wayside. Cicero's comments in the *Verrines* on the provinces and on the courts can be seen not only as a reflection of Pompey's agenda but as part of his solution.

POMPEY, CICERO, AND THE PROSECUTION OF VERRES

Much of our evidence for 70 comes from the *Verrines* and its interpretation depends on how we understand the relationship between Cicero's words and Pompey's views. Like Badian and others, I take the view that Cicero prosecuted Verres with Pompey's backing, if not at his behest.⁷ The more common view, however, is that Cicero was simply furthering his career by way of noteworthy performance in the courts. Vasaly (2009, 110) stresses the importance of the trial for the political and oratorical reputation of the '*adulescens*' Cicero. For Mitchell (1979, 147), Cicero was 'pursuing a time-honored practice of Roman politics whereby younger politicians undertook the rigors of an *illustris accusatio*'. Gruen (1971, 12) and Brunt (1980, 288), too, argue that Cicero's actions were simply those of a *novus homo* advancing his career—though, as Gruen points out, that was better accomplished by defending.

⁴ Brunt (1980, 287) points out that we must accept Cicero's account of Pompey's *contio* and of Catulus' speech, whether or not this analysis of popular agitation is correct (cf. Hillard 1984, 123 n. 195).

⁵ See 'Pompey's programme and the tribunes of 67', below. In addition, tribunes could deliver critical *contiones* and bring criminal charges, though those powers had never been lost, or had been restored in 75 (see e.g. Brennan 2000, 396).

⁶ Cic. *Verr.* 1.44; other references in *MRR* 2.126. The law was proposed perhaps in January: McDermott 1977, 50; Gelzer 1963, 164.

⁷ Badian 1958, 282–4; Ward 1970; Stone, forthcoming.

There are two key objections to this line of argument. First, Cicero was 36 and aedile-elect by the time the case came to trial. He can hardly be classed with men like Caesar and Ap. Claudius Pulcher, whose forays as prosecutor belong to their early twenties, before they had even entered the senate.⁸ In the *divinatio*, Cicero makes clear that his course was unusual, even a source of criticism (70). In defending it, he describes himself as reviving a tradition of senior men appearing in defence of allies, for which he cites no example more recent than 104, and most considerably earlier (*div. Caec.* 66–9). Pace Mitchell, Cicero cannot appeal to contemporary practice, but only to the norms of previous generations.⁹ In the 70s, by contrast, prosecutors *de repetundis* overwhelmingly were men in their twenties or even late teens.¹⁰ Admittedly Cicero's competitor Q. Caecilius was older—he was quaestor only two years after Cicero (Broughton *MRR* 3.43)—but Cicero indicates that Caecilius' aims and position in life were very different from his own. Cicero had to think of his future career; Caecilius, he says, had nothing to lose (*div. Caec.* 71–2).¹¹ Possibly he had embraced the somewhat disreputable life of a 'career prosecutor'.¹² At any rate, what data we have suggests a far less eminent figure, even by comparison with the new man Cicero.¹³ Furthermore, Caecilius, unlike Cicero, could claim a personal quarrel with Verres as grounds for prosecuting.¹⁴

Secondly, prior to 70 Cicero had consistently preferred to defend. Prosecution he considered not only politically dangerous but personally repugnant (*Verr.* 2.2.10; *off.* 2.50). The decision to prosecute Verres amounted to a sudden change of policy, as Cicero himself acknowledges (*div. Caec.* 1). For that reason, he attempts to recast the trial as the defence of Sicily; indeed, he claims to be defending all Rome's provinces and the *res publica* itself.¹⁵ Later he would refer to the trial simply as *pro Siculis* (*off.* 2.50) or *in patrocínio Siciliensi* (*Brut.* 319).

Thus the prosecution of Verres was an aberration, both in terms of normal practice and of Cicero's previous career. He must have had strong reasons for undertaking it.¹⁶ Doubtless he was thinking of his future career, but that

⁸ See *TLRR* nos 140 and 158.

⁹ Cf. Tatum 2013, 141.

¹⁰ See e.g. *TLRR* nos 131, 135, 140, 158, with references; cf. nos 174, 139.

¹¹ This might imply that Caecilius aspired to no higher office, and we hear of none, unless he is to be identified with the tribune of 68 (see *MRR* 3.37).

¹² Cicero's recommendation to the Sicilians (*div. Caec.* 4) suggests that Caecilius had experience; he had previously attempted to prosecute P. Gabinius (*div. Caec.* 64). For the low opinion of men who appeared regularly as prosecutors, see e.g. *Cic. off.* 2.49–51; Fantham 1997, 120–1.

¹³ See Plut. *Cic.* 7.6; Lintott 2008, 85 n. 20.

¹⁴ *Cic. Verr.* 2.1.15. Elsewhere Cicero indicates that it was exceptional to prosecute in the absence of some personal grievance (2.3.6).

¹⁵ *Cic. div. Caec.* 5, 7; *Verr.* 2.2.10. Cf. Vasaly 2009, 116, 118, 129.

¹⁶ Cicero claims that he was moved by the plight of the Sicilians (e.g. *Verr.* 2.2.10), but that was not so initially; something changed his mind.

makes the decision to *prosecute* all the harder to explain.¹⁷ As Vasaly (2009, 126) notes, it was an ‘extremely risky strategy’, especially when the defendant was as well connected as Verres. In the first *actio*, Cicero describes the dangers he has faced as a consequence of having undertaken the prosecution (1.3–4). He claims that Verres had tried to undermine his campaign for the aedileship (1.22–5, 2.1.19) and emphasizes the power of Verres’ friends, two of whom—Q. Hortensius and Q. Metellus—had been elected consuls for the following year (1.19, 26). At the close of the second *actio*, Cicero alludes to the *inimicitia* he will have brought upon himself, in addition to the usual obstacles faced by a *novus homo* (2.5.180). Even allowing for exaggeration, it is hard to believe the risk was worth taking for oratorical fame alone. The equation changes completely, however, if Cicero had powerful backing of his own.

Stone makes the important point that Cicero was initially reluctant to prosecute Verres.¹⁸ Cicero says, in the *divinatio*, that he had advised the Sicilians to take their case to Q. Caecilius, the very man whom Cicero found himself competing against in 70.¹⁹ The story is unlikely to be fabricated: it hardly supports his suit in the *divinatio*, nor does it reflect particularly well on Cicero that he had commended as prosecutor a man whom he subsequently accused of complicity with Verres.²⁰ Other references make clear that the Sicilians had petitioned Cicero repeatedly and determinedly before he agreed to act as prosecutor.²¹ Evidently someone or something intervened to change his mind, and the obvious answer is Pompey, for whose patronage it was worth risking the enmity of Verres’ friends.²²

In the *divinatio*, Cicero says that some of Rome’s leading men (*virī clarissimi nostrae civitatis*) attest the Sicilians’ wish that he be chosen prosecutor (13). ‘It is not necessary for me to name them all,’ he adds, but only those present in court, including C. Claudius Marcellus and Cn. Lentulus Marcellinus.²³ I suggest that Pompey (called *clarissimus vir* several times in the *Verrines*)²⁴

¹⁷ Cf. Taylor 1949, 102–3.

¹⁸ Stone, forthcoming. Cicero was active on behalf of the Sicilians in 71, however: he defended Sthenius before the college of tribunes, probably early in the year: Cic. *Verr.* 2.2.100; Lintott 2008, 84.

¹⁹ Cic. *div. Caec.* 4. Despite Cicero’s later comments, Caecilius had strong connections with Sicily to commend him as prosecutor: he had been educated on the island (39) and served there as quaestor, though the fact that he had done so under Verres counted against him (4–5, 56, 60–3).

²⁰ Cic. *div. Caec.* 32–5. Presumably Cicero discovered Caecilius’ (alleged) complicity only later; certainly *div. Caec.* 4 indicates that it was Cicero’s recommendation of Caecilius that elicited the Sicilians’ complaints about him.

²¹ Cic. *div. Caec.* 2, 14. Cicero stresses the awkward position in which the Sicilians had placed him (4–5). At *Verr.* 2.5.180 he claims to have acted against his will.

²² Cf. Stone, forthcoming. An unpublished paper by Stone makes the point more strongly.

²³ Cic. *div. Caec.* 13: *quos omnis a me nominari non est necesse*. In fact neither Marcellus nor Marcellinus was technically *clarissimus vir* (that is, consular): Whitehead 2005, 144–5, 152–3.

²⁴ Cic. *Verr.* 1.45, 2.2.102, 2.2.110, 2.5.153; cf. 2.3.45, where Pompey is named alongside the Marcelli.

is among those Cicero does not name. Although Cicero never explicitly claims Pompey's backing, there are many indications that he was involved behind the scenes.

In 72, Pompey's friends, the consuls Cn. Cornelius Lentulus Clodianus and L. Gellius Publicola, had attempted to assist Sthenius of Thermae, a client of Pompey who fled to Rome and was condemned *in absentia* after opposing Verres' attempts to remove artworks from Thermae.²⁵ The Sicilians made direct appeals to Pompey as well. 'Who is unaware,' says Cicero, 'of what great crowds of them came regularly to the Marcelli, ancient patrons of Sicily, to Cn. Pompeius, then consul-designate, and to all other friends of the province?'²⁶ Note *quis ignorat*—Cicero did not *need* to inform his audience of Pompey's interest in the trial; everybody knew.

Particularly significant is the visit of Sosippus of Agrigentum to Rome in 70:

Multa Sosippus Agrigentinus apud Cn. Pompeium consulem nuper, homo disertissimus et omni doctrina et virtute ornatissimus, pro tota Sicilia de aratorum miseriis graviter et copiose dixisse ac deplorassee dicitur; ex quibus hoc iis qui aderant,—nam magno conventu acta res est,—indignissimum videbatur, qua in re senatus optime ac benignissime cum aratoribus egisset, large liberaliterque aestimasset, in ea re praedari praetorem, bonis everti aratores, et id non modo fieri sed ita fieri quasi liceat concessumque sit. (Cic. Verr. 2.3.204)²⁷

Very recently, Sosippus of Agrigentum, a most eloquent man furnished with every form of learning and virtue, is said to have spoken before our consul Pompey on behalf of the whole of Sicily and to have described seriously and at length the sufferings of the farmers and to have lamented them. It seemed most shameful to those who were present—and the occasion had drawn a large crowd—that, in a matter where the senate had acted most fairly and beneficently towards the farmers, by fixing a high and generous price, that matter had become plunder for the praetor and ruin for the farmers, and not only had this been done, but it had been done as though allowed and permissible.

The episode took place in 70, probably early in the year.²⁸ Not only was Pompey fulfilling his role as patron by providing Sosippus with a forum (Prag 2013, 275), but he was once again publicly associating himself with the cause of fair treatment for the provinces and for Sicily in particular. The fact that he did so at a time when a prosecutor was in Sicily gathering evidence against Verres is surely significant.

²⁵ Cic. Verr. 2.2.83–95. On Pompey and Sthenius, see Verr. 2.2.110, 113; Plut. Pomp. 10.6–7; mor. 203d.

²⁶ Cic. Verr. 2.3.45: *quorum quanti conventus ad Marcellos, antiquissimos Siciliae patronos, quanti ad Cn. Pompeium tum consulem designatum, ceterosque illius provinciae necessarios fieri soliti sint, quis ignorat?*

²⁷ See Stone (forthcoming) on the significance of this passage.

²⁸ While Cicero was in Sicily: Frazel 2009, 191 n. 8.

The number of Pompeii who appeared as witnesses for the prosecution is another strong indication of Pompey's interest. Cn. Pompeius Theodorus, Cn. Pompeius Basiliscus, Cn. Pompeius Philo, and the Pompeii Percennii are probably all men enfranchised by Pompey.²⁹ There is a good chance that other witnesses, too, were clients of Pompey, without bearing his name, as we know was the case with Sthenius.³⁰ As Ward (1970, 67) notes, it is unlikely that Cicero could have been working with so many Pompeian clients and not with Pompey himself; in Badian's view, Cicero 'paraded' Pompey's support (1958, 283).

Finally, Cicero seems to take up the terms of Pompey's *contio* speech. This is clearest in the *divinatio* (7), where Cicero complains that 'the provinces have been ravaged, abused, and completely cleaned out': *populatae, vexatae, funditus eversae provinciae* parallels Pompey's *populatas vexatasque esse provincias* (Verr. 1.45). I have not found the combination outside the Verrine corpus.³¹ Moreover, the *divinatio* preceded the first *actio* by more than six months, but was probably closer in time to Pompey's *contio* speech.³² I suggest, therefore, that Cicero was relying on public recollection of the momentous *contio* and taking up Pompey's programme in Pompey's own words.³³

As to why Pompey chose to remain in the background, the most obvious explanation is that he wished to avoid overt involvement in the political controversy surrounding Verres.³⁴ Indeed, Pompey's interest might not have played well with some of the senatorial jurors.³⁵ Another factor, probably, was Crassus—Pompey's consular colleague and a supporter of Verres. Stone plausibly suggests that Cicero kept both Pompey and Crassus out of the trial, so far as possible, because the two consuls could not afford another public clash.³⁶ But such behind-the-scenes involvement was far from unusual, and Pompey himself would play the same role in the prosecution of L. Valerius Flaccus, also for extortion, in 59.³⁷

²⁹ Cic. Verr. 2.2.102; 2.4.25, 48; Badian 1958, 304. Note also Sex. Pompeius Chlorus (2.2.102).

³⁰ Stone, forthcoming; cf. Pina Polo 2015, 28–30.

³¹ Cf. Cic. div. Caec. 2 (*populati atque vexati*); Verr. 2.3.122 (*populatam vastatamque provinciam*).

³² Pompey's *contio* took place in autumn 71 (Pina Polo 1989, 287), the *divinatio* in January 70 (Marinone 2004, 65), and the first *actio* in August (Verr. 1.31).

³³ Cf. Malcovati 1955, 360. Cic. Verr. 1.45 indicates that Pompey's *contio* was a major occasion. Sallust seems to have treated it in detail (*hist. fr.* 4.38–42 McGushin) and provides some confirmation of its themes (note fr. 41 with McGushin 1992, 2.159–60). See 'The Verrines and the courts' for another probable echo of Pompey's speech (Verr. 1.43).

³⁴ So Gelzer 1963, 168; Lintott 2008, 84.

³⁵ Relations between Pompey and the senate were uneasy in 70 (see e.g. Plut. *Pomp.* 22.3).

³⁶ Stone, forthcoming; cf. Plut. *Crass.* 12.2; *Pomp.* 22.3. Plut. *Pomp.* 23.1 indicates that the consuls' enmity was a source of public concern.

³⁷ See chapter 4, 'Pompey and the trials of 59'. Cicero's reference to rumour (*sermo*) in *Flacc.* 14 shows that the prosecution did not openly claim Pompey's backing. Other examples

THE VERRINES AND THE COURTS

There was broad consensus in 70 that something needed to be done about the courts, though there was disagreement as to what that should be. It is implicit in the *Verrines* that the senate as a whole wished to retain its judicial privileges; at the same time *populares* and at least one *nobilis* were agitating for the return of equestrian juries (Cic. *Verr.* 2.2.174, 2.3.223–4), while the law eventually passed by L. Aurelius Cotta created a three-way split between senators, *equites*, and *tribuni aerarii* (Asc. 17, 67, 78C). Pompey's position is unclear and has been subject to every conceivable interpretation.³⁸

Some scholars have maintained that Pompey was working through Cotta or at least collaborating closely with him in the reform of the courts.³⁹ There is no evidence, however, unless the Gronovian scholiast is correct that the tripartite division adopted in the *lex Aurelia* was proposed by M. Lollius Palicanus.⁴⁰ But the scholiast is confused; moreover, if Pompey had been thinking of a judiciary law in 71, we must ask why he took no action himself, as he did on the tribunes' powers.⁴¹ The matter of the courts was already linked with that of the tribunate, and there is little doubt that Pompey, with popular opinion behind him, could have secured the passage of a judiciary bill around the same time,⁴² yet court reform was left to a praetor and no bill promulgated until about September.⁴³ By contrast, Pompey did pass a judiciary law in his own name during his second consulship in 55, with the intention of curbing corruption; moreover, this law and the *album* of jurors Pompey hand-picked in 52 suggest he had somewhat different views on the composition of juries, though he did not disturb the tripartite division.⁴⁴ It seems best to conclude

include Ap. Claudius Pulcher's role in the trial M. Aemilius Scaurus (see e.g. Dyck 2012, 96) and Clodius' in that of M. Caelius Rufus (Gruen 1973, 307–8).

³⁸ For instance, Taylor (1949, 104–5) suggests that Pompey aligned himself with the demand for all-equestrian juries, Ferrary (1975, 338) that he would have retained senatorial juries, and B. A. Marshall (1975a, 148–9) that he devised the compromise of the *lex Aurelia*, while Sherwin-White (1956, 7) holds that Pompey was 'not greatly interested' in the reform of the courts.

³⁹ e.g. Mommsen 1908, 4.95–6; Syme 1939, 29; Last 1932, 335; Bleicken 2004, 76; Stockton 1973, 218; Ward 1970, 68–70; B. A. Marshall 1975a, 136–7.

⁴⁰ Schol. Gronov. 328St, accepted by Hillard (1984, 102) and Stone (forthcoming), rejected by Broughton (*MRR* 2.122) and Seager (2002, 38). Palicanus (tr. pl. 71) convened the *contio* at which Pompey spoke as consul-elect (Ps-Asc. 220St; cf. Sall. *hist. fr.* 4.28 McGushin); other sources connect him with the campaigns for the restoration of the tribunes' powers and against Verres, but not with jury reform.

⁴¹ Ferrary (1975, 338) poses the same question.

⁴² Cf. Mitchell 1979, 131.

⁴³ Cic. *Verr.* 2.5.177–8; cf. 2.3.223; Lintott 2008, 90–1. The bill had not been published when Verres' trial began on 5 August (*Verr.* 1.31), if indeed this was the final version (see Stockton 1973, 217). As Brunt (1980, 285) notes, major praetorian legislation was unusual where consuls were available.

⁴⁴ The law of 55 required that jurors be chosen from the highest property classes within the three orders, thus substituting a legal formula for human caprice (Asc. 17C; Cic. *Pis.* 94). In 52 Pompey personally selected a judicial *album* of unprecedented excellence and integrity (Asc.

that the *lex Aurelia* was not Pompey's project, though he may ultimately have supported it, or at any rate did not oppose it.⁴⁵ Plutarch (*Pomp.* 22.2) indicates just such a distinction: Pompey restored (ἀπεδωκε) the powers of the tribunes, but allowed (περιεἶδεν) the courts to be transferred to the *equites*.⁴⁶ However, it does not detract from Pompey's interest in the provinces if he was behind the *lex Aurelia*: the law was positioned as a response to corruption in the provinces as well as corruption in the courts (Cic. *Verr.* 2.3.223–4).

I suggest that the best indication of Pompey's attitude to the courts comes not from the *lex Aurelia* but from the *Verrines*. If Pompey was behind the prosecution, as I have argued, it should follow that Cicero's position on the courts also aligned with Pompey's. There is some dispute, however, as to what Cicero is advocating. At face value, certainly, he is arguing for the retention of senatorial juries.⁴⁷ Nonetheless, some scholars maintain that he favoured the return of *equites* to the courts. Bloch and Carcopino (1935, 536) regard Cicero as the propagandist of the *lex Aurelia*, though they cannot be right that the *actio secunda* was designed to influence voting on the law.⁴⁸ Stockton (1971, 42–3), too, sees Cicero as spokesman for the reforms of 70 and the *Verrines* as 'a detailed and overwhelming justification for the cause of moderate administrative and constitutional reform'.⁴⁹ Butler (2002, 77–8) argues that Cicero, in the *Verrines*, 'celebrates' the *lex Aurelia* and retrospectively tries to claim credit for it, though in Butler's view the trial itself was politically insignificant. Similarly, Berry suggests that Cicero, in threatening the senatorial *iudices*, was 'nailing his colours to the mast' in favour of equestrian juries and thereby courting the favour of the men whom he expected to be addressing in future cases.⁵⁰

Against this view stands the fact that Cicero repeatedly and explicitly claims to defend the senate against the push for jury reform. At the beginning of the *actio prima* he declares that he undertook the prosecution 'not to increase the

38C). If he intervened in the selection of Verres' jury as I have suggested below, the trial might be seen as a precursor to his policy in 52.

⁴⁵ Cf. e.g. Taylor 1949, 219 n. 44; Sherwin-White 1956, 7–8; Gelzer 1963, 168–73; Twyman 1972, 826; Griffin 1973a, 205; Gruen 1974, 34; Ferrary 1975, 337–8; Mitchell 1979, 131; Brunt 1980, 285; Seager 1992, 225.

⁴⁶ Stone's alternative interpretation of this passage (forthcoming) does not explain the delay; nor is it clear how leaving reform to Cotta would be more popular than Pompey legislating in his own name.

⁴⁷ See e.g. Gruen 1971, 10.

⁴⁸ The published speeches cannot have appeared before the passage of the law: Brunt 1980, 286–7.

⁴⁹ Cf. Ward 1970, 69–71, who argues that Cicero and Pompey were cooperating with Cotta and 'designed' the case against Verres to make Cotta's bill possible.

⁵⁰ Berry 2003, 224–5. Cicero's critique is not as extreme as Berry suggests, however: he misconstrues *Verr.* 1.35–6 as referring to senatorial juries when in fact Cicero's addressee is Hortensius.

odium of the order, but to relieve our shared disgrace'.⁵¹ It is not only Verres but senatorial juries that are on trial, and Cicero implores the court to defend the *causa senatus*.⁵² It is in Rome's best interests, he says, that the senate retain the courts: 'At this time no greater salvation for the state can be found than for the Roman people to understand that, after careful rejection of jurors by the prosecutor, the allies, the laws, and the *res publica* can be defended most mightily by senatorial judgement.'⁵³

It is true that Cicero speaks critically of senatorial juries: of infamous and criminal conduct in the courts since they were transferred to the senate (*Verr.* 1.37) and of bribery at the expense of the allies, to the point where they might be better off without an extortion court (1.41–2). Such comments are at first sight hard to reconcile with a preference for retaining senatorial juries or a policy of protecting the provinces. But Cicero is not saying that senators are universally or irreparably corrupt. In the *actio prima*, he makes clear that the crisis facing the courts is a crisis of reputation: the *invidia* of the senatorial order and the *infamia* of the courts (1.1); the belief (*opinio*, *sermo*) that senatorial courts would never convict a rich man (1.1); the *existimatio iudiciorum* (1.2); and the consequent loss of *auctoritas* (1.3). Moreover, Cicero explicitly attributes this disrepute to the misdeeds of a few, namely those who give or receive bribes and their agents (1.36), from whom the present jurors (1.10, 49)—and, indeed, the majority of senators—are carefully distinguished. It is the criminal behaviour of a few, says Cicero, that has contaminated the courts as a whole (*div. Caec.* 7; *Verr.* 1.36), and it is the senatorial order, as much as the Sicilians, that he claims to defend (*Verr.* 1.2). Indeed, all of this builds up to Cicero's appeal to the jurors to convict Verres and thereby *avoid* the transfer of the courts. The trial, he says, is a heaven-sent opportunity for freeing the whole order from infamy and disgrace (1.43).

What evidence we have of trials during the 70s supports this analysis, including the examples Cicero cites in the *Verrines*. Gruen identifies only three or at most five cases of judicial bribery among numerous other trials where there is no word of corruption.⁵⁴ This is the more striking in view of

⁵¹ Cic. *Verr.* 1.2: *non ut auferem invidiam ordinis, sed ut infamiae communi succurrerem*. Cf. 2.1.5, where Cicero again links his own reputation with that of the courts.

⁵² Cic. *Verr.* 1.46–51; cf. e.g. 2.1.4–6.

⁵³ Cic. *Verr.* 2.1.4: *Neque enim salus ulla rei publicae maior hoc tempore reperiri potest quam populum Romanum intellegere, diligenter reiectis ab accusatore iudicibus, socios, leges, rem publicam senatorio consilio maxime posse defendi*. Cf. §5.

⁵⁴ Gruen 1974, 31–3. 'Corruption', he concludes, 'was hardly rampant.' Gruen (33–4) also emphasizes the role of L. Quinctius (tr. pl. 74), who had unsuccessfully defended Oppianicus, in stirring up popular feeling (cf. e.g. Cic. *Clu.* 77, 136–8; Hillard 1984, 92; Millar 1998, 61–3). Catulus may have been thinking specifically of Quinctius' activities in 74 when he linked judicial corruption with the appeal for restoration of the tribunes' powers (Cic. *Verr.* 1.44). Gruen goes too far, however, in downplaying the scandal surrounding the courts (cf. Brunt 1980, 287–8; Steel 2014a, 330), and his view that the *lex Aurelia* was an uncontentious administrative reform

Cicero's claim to have invoked *omnis offensiones iudiciorum* ('all the offences of the courts', *Clu.* 139). In fact, the ignominy of the courts seems to have stemmed particularly from two trials: those of Statius Albius Oppianicus and (A.?) Terentius Varro, both in 74.⁵⁵ But Oppianicus' trial, while notorious, in no way concerned the provinces; moreover, the jury was bribed to *convict* rather than acquit—the opposite sort of corruption to that which Cicero associates with the extortion court.⁵⁶ Varro is the only instance Cicero cites of a corrupt acquittal—and, even then, the marking of the voting-tablets might suggest that the defence had little confidence in the jurors.⁵⁷ In every other case where the verdict is known, the defendant was convicted (*Verr.* 1.38–40). Perhaps most revealing is the example of P. Septimius Scaevola, condemned *de repetundis* in 72 (*TLRR* no. 172). Septimius' damages were assessed with regard to the bribe he had accepted for convicting Oppianicus, but Cicero gives no hint of corruption at Septimius' own trial.⁵⁸

In other words, Cicero co-opted public indignation concerning corrupt convictions, and Oppianicus' in particular, to support quite a different cause, namely the call for stricter extortion trials. As Cicero himself later explained,

Cum enim accusarem et mihi initio proposuissem ut animos et populi Romani et iudicium commoverem, cumque omnis offensiones iudiciorum non ex mea opinione sed ex hominum rumore proferrem, istam rem quae tam populariter esset agitata praeterire non potui. (Cic. *Clu.* 139)⁵⁹

Since I was accusing and as my first object I had set out to move the feelings of both the Roman people and the jurors, and since I was citing all the offences of the courts not according to my own opinion but according to common talk, I was not able to omit that matter which was, at the time, the topic of popular agitation.

To the same end, Cicero exaggerates the incidence of acquittals by senatorial juries. It is true that C. Gracchus originally introduced equestrian juries in response to a series of scandalous acquittals (*App. BC* 1.22); however, a survey

designed to increase the pool of available jurors seems unsustainable in view of Cicero's explicit and consistent comments in the *Verrines*. Neither does he include cases where political concerns, rather than actual bribery, might have influenced the verdict, as he suggests elsewhere in the case of Cn. Cornelius Dolabella, cos. 81 (Gruen 1966, 389; *TLRR* no. 140).

⁵⁵ Cic. *Clu.* 130; *TLRR* nos 158, 149. Cf. Hillard 1984, 90–5.

⁵⁶ e.g. Cic. *Verr.* 1.1. Oppianicus was an *eques* charged with poisoning; the prosecutor (i.e. bribe-giver), too, was an equestrian rather than a senator. On the fallout from the trial (the so-called *iudicium Iunianum*), see Alexander 2002, 186. Most of Cicero's examples of judicial corruption are connected with this trial. Q. Calidius (*Verr.* 1.38) seems to be another example of corrupt conviction.

⁵⁷ Cic. *Verr.* 1.40 does not specify the verdict, but the case was well known (e.g. *div. Caec.* 24).

⁵⁸ Cic. *Verr.* 1.38; *Clu.* 115–16. Cf. *Verr.* 1.39 on C. Herennius, C. Popilius, and M. Atilius, likely also jurors at Oppianicus' trial (see Alexander *TLRR*, 76 n. 4).

⁵⁹ Cf. Cic. *Clu.* 138. As Cluentius' advocate, Cicero attempted to downplay the extent of corruption at Oppianicus' trial and even to distance himself from the *Verrines*.

of Alexander's *Trials in the Late Roman Republic* suggests that senatorial jurors were at least as willing to convict as their equestrian counterparts.⁶⁰ For the decade preceding Verres' trial, several convictions are attested in the extortion court alone: Septimius in 72; Cn. Cornelius Dolabella in 78 (TLRR no. 135); Q. Calidius in 77, probably for extortion (no. 139); and P. Gabinius, c.76–70.⁶¹ In addition, Cicero reports the conviction of a senator earlier in 70, though he denies the case any significance on account of the defendant's moderate wealth (*Verr.* 1.46). The context might suggest an extortion trial.

A legitimate argument could be made, therefore, that retaining senatorial juries was in the best interests of provincials. The lax reputation of the extortion court derived principally from Varro's trial—given Cicero's agenda, his failure to mention any other notorious acquittals suggests that there were none—and the jurors could hope to expunge that memory by the emphatic conviction of Verres. Probably reluctance to prosecute, and the calibre of those who did prosecute (*Cic. div. Caec.* 8), posed greater obstacles than reluctance to convict, and these too Pompey addressed, starting with the exemplary prosecution of Verres.⁶² Meanwhile, censors were elected to remove from the senate those individuals responsible for bringing the courts into disrepute.⁶³

At the same time, Cicero's attitude to *equites* in the *Verrines* is decidedly ambivalent. In the first *actio* he praises the equestrian juries of the past: 'The Roman people shall learn from me how it is that, while the equestrian order made judicial decisions, for nearly fifty years together not even the slightest suspicion of accepting a bribe in order to make a judicial decision rested on a Roman *eques* serving as juror.'⁶⁴ He proceeds to contrast the catalogue of scandals since Sulla restored the courts to the senate (1.39–40). But, as we have seen, these comments form part of Cicero's appeal to the jurors to redeem their reputation, and he exaggerates to that end (Ferrary 1975, 343–5). Furthermore, the seemingly spotless record of equestrian juries must be viewed in light of the fact that *equites* (unlike senators) were legally immune

⁶⁰ For *repetundae* trials in the period between C. Gracchus and the *lex Aurelia* where both the charge and the outcome can be regarded as certain, Alexander records four convictions (nos 135, 172, 174, 177) and three acquittals (144, 158, 170) by all-senatorial juries, but only two convictions (45, 94) and five acquittals (32, 37, 51, 84, 91) by equestrian juries—the two certain convictions being those of C. Porcius Cato (cos. 114), whose damages were calculated at an exceptionally low sum (*Cic. Verr.* 2.3.184, 2.4.22; *Vell.* 2.8.1), and of P. Rutilius Rufus, who was widely regarded as an innocent victim (e.g. *Cic. Font.* 38; *Scaur.* fr. 2; *Liv. Per.* 70). Admittedly the sample is small, but the trend is reasonably clear and persists when less-certain cases are factored in.

⁶¹ *Cic. div. Caec.* 64 (*nuper*); TLRR no. 174.

⁶² Cf. chapter 4, 'Pompey and the trials of 59', on L. Valerius Flaccus and C. Antonius, also prosecuted with Pompey's backing.

⁶³ See 'The censorship', below.

⁶⁴ *Cic. Verr.* 1.38: *Cognoscet ex me populus Romanus quid sit quam ob rem, cum equester ordo iudicaret, annos prope quinquaginta continuos <in> nullo, iudices, equite Romano iudicante ne tenuissima quidem suspicio acceptae pecuniae ob rem iudicandam constituta sit.*

from charges of bribe-taking.⁶⁵ Elsewhere, Cicero warns of the perils of equestrian juries:

Antea cum equester ordo iudicaret, improbi et rapaces magistratus in provinciis inserviebant publicanis; ornabant eos qui in operis erant; quemcumque equitem Romanum in provincia viderant, beneficiis ac liberalitate prosequabantur; neque tantum illa res nocentibus proderat quantum obfuit multis, cum aliquid contra utilitatem eius ordinis voluntatemque fecissent. Retinebatur hoc tum nescio quo modo quasi communi consilio ab illis diligenter, ut, qui unum equitem Romanum contumelia dignum putasset, ab universo ordine malo dignus iudicaretur.

(Cic. Verr. 2.3.94)

Formerly, when the equestrian order made judicial decisions, wicked and rapacious magistrates in the provinces were devoted to the *publicani*; they honoured those who were in business; every Roman *eques* they saw in the province, they pursued with favours and generosity; and that behaviour did not so much benefit the wrongdoers as it injured many, if they had done anything contrary to the interests and wishes of that order. At that time this was somehow carefully maintained by those men, as if by general agreement: that he who thought fit to insult a single Roman knight was judged worthy of harm by the entire order.

There is an obvious allusion here to the case of P. Rutilius Rufus, condemned by an equestrian jury in 92 after he and Q. Mucius Scaevola had offended the Asian *publicani*.⁶⁶ That jury, moreover, did not need to be bribed.⁶⁷ As Ferrary notes, Cicero's words cannot fail to sound like a warning.⁶⁸ It is also implicit in this passage that provincials would fare worse under equestrian juries, since governors would be less willing to restrain the *publicani*.⁶⁹

Another passage casts serious doubt on the integrity of equestrian jurors. Cicero describes how L. Carpinatius, *magister* of the company collecting *scriptura* and *portoria* in Sicily, won Verres' favour and, by his letters, persuaded the company to look favourably on Verres (2.2.169–72; 2.3.165). On Carpinatius' instruction, the company's members publicly greeted and thanked Verres on his return from Sicily, and Verres asked them, in return,

⁶⁵ A few years after the reforms of 70 we find renewed demand for equestrian jurors to be made subject to penalties for bribe-taking (Cic. Clu. 152). The debate probably existed alongside the question of jury reform in 70, though then as later this self-evident but politically toxic precaution was not enacted (cf. Att. 2.1.8 SB 21). Pompey's later attempt to subject *equites* to the penalties of the *lex repetundarum* raises the possibility that he favoured equestrian liability in 70 (see chapter 5).

⁶⁶ See e.g. Liv. per. 70 and TLRR no. 94, with further references; I am not persuaded by Kallet-Marx's attempt (1990, 126–9) to date the trial to 94. Cf. Diod. 37.5.1 for a similar picture of the position of governors under equestrian juries and below in this section for the equation of *equites* and *publicani*.

⁶⁷ Weinrib 1970, 422–3; Hands 1972, 270–1.

⁶⁸ At a time when Lucullus had angered the *publicani*: Ferrary 1975, 341 (see 'Verres' trial and judicial reform', below).

⁶⁹ Cf. Brunt 1988, 187.

to ensure that their records contained nothing compromising regarding his own activities (2.2.172–3). Before their association, Cicero explains, Carpinatius and Canuleius, who was in charge of the collection of *portoria*, had written to the company detailing Verres' thefts and misdeeds; now, however, the company passed a resolution that all documents potentially damaging to Verres' reputation should be disposed of, and care taken that no harm should come to him (2.2.173). Nonetheless, Cicero was able to obtain two papers which provided ample evidence of Verres' failure to pay tax on the export of (stolen) goods (2.2.182–3).

What is significant, for present purposes, is the way in which Cicero talks about the *publicani*. The passage of the resolution and the destruction of the documents, he says, are tantamount to a guilty verdict against Verres by the very men whom the people were clamouring for as jurors and whom Cotta's bill would have appointed to the courts.⁷⁰ If these same *publicani* had been serving as jurors, Cicero argues, they would have had no choice but to convict Verres. The senators, therefore, must do the same (2.2.180). Again, however, Cicero's seeming vote of confidence in equestrian juries is double-edged: while the *publicani* recognized Verres' guilt, they did not want to see him punished (2.2.175). Cicero can only claim that they would have convicted him because their *complicity* made them aware of his crimes. Similarly, while Cicero praises some of the *publicani*—*homines honestissimi* (2.2.175), men of *fides* and *religio* (2.2.177)—the distinction between them and their business partners is that these men were prepared to testify (with impunity) to what they had agreed.⁷¹

Finally, Cicero draws a comparison between senatorial and equestrian jurors which suggests that *equites*—whom he equates with *publicani*—make judicial decisions based on self-interest rather than the merits of the case:

Certe huic homini spes nulla salutis esset, si publicani, hoc est si equites Romani iudicaret: minor esse nunc, iudices, vobis disceptantibus debet, et tanto minor quanto est honestius alienis iniuriis quam re sua commoveri.

(Cic. Verr. 2.3.168–9)⁷²

Certainly this man would have no hope of salvation, if *publicani*—that is, if Roman knights—were serving as judges; there ought to be less hope as things are, gentlemen, with you judging, and so much the less as it is more honourable to be stirred by the injuries of others than by one's own interests.

⁷⁰ Cic. Verr. 2.2.174; note that Cicero here equates the demand for equestrian jurors with a demand for *publicani* (cf. 2.3.168–9).

⁷¹ Cicero's witnesses also included *equites* prepared to testify that they had bribed Verres to secure a judicial decision (Verr. 2.2.119). *Equites* could not be charged either with giving or receiving bribes (see e.g. Cic. Clu. 151–6; Att. 1.17.8 SB 17, 2.1.8 SB 21).

⁷² The charge in question concerned interest Verres had made on public money to the detriment of the *publicani*. Cf. 2.3.223–4.

It seems best to conclude that Cicero (and Pompey) favoured retaining senatorial juries—or at least some senators, in the face of vocal demands for all-equestrian panels.⁷³ Cicero's critique of senatorial courts can be understood as 'constructive criticism'. Catulus, too, had condemned the disgraceful conduct of senatorial juries (Cic. *Verr.* 1.44), but there is no reason to think he favoured the transfer of the courts.⁷⁴ Cicero's point is not that senatorial juries must be replaced, but that they must behave themselves. His critique of the senate is designed, in part, to goad the jurors into convicting Verres, lest they lose control of the courts, but also to promote better standards of conduct for the future.

Two further passages strengthen the link with Pompey. In the *divinatio*, Cicero remarks that 'Those who wish the courts to remain in the hands of the senatorial order complain that they do not have suitable prosecutors.'⁷⁵ He distinguishes this group from the advocates of equestrian juries.⁷⁶ Now, Cicero rates himself a suitable prosecutor (*div. Caec.* 70). If it was indeed Pompey who persuaded him to undertake the case, this places Pompey among those who wished the senate to retain the courts. Secondly, Cicero exhorts the jurors in the first *actio* to 'consider and see to' (*consulite ac providete*) the state of the courts (1.43). Two chapters later, we read of Pompey's promise as consul-elect *providere ac consulere* with respect to the provinces and the courts (1.45). The combination *consulere* and *providere* is sufficiently rare for its repetition here to stand out.⁷⁷ It serves to align the jurors' task with Pompey's policy for the courts: namely, to retain senatorial juries, but honest senatorial juries, as evidenced by the conviction of Verres.

VERRES' TRIAL AND JUDICIAL REFORM

Some scholarship rejects the idea that Cicero intended to influence the fate of the courts in favour of the unsupported theory that jury reform was a

⁷³ Cicero's strategy presupposes that, at the time of the first *actio*, at least, some possibility existed of avoiding jury reform (see 'Verres' trial and judicial reform', below). Any awkwardness or contradiction in Cicero's handling of the *equites* might be explained by conflict between his 'brief' in Verres' trial and his personal ties to the *equester ordo*.

⁷⁴ See Vasaly 2009, 105–6. Note also that Catulus was one of the jurors, and Cicero's line of argument takes it for granted that at least the majority of the jury wished to see senatorial courts retained.

⁷⁵ Cic. *div. Caec.* 8: *Qui iudicia manere apud ordinem senatorium volunt, queruntur accusatores se idoneos non habere.*

⁷⁶ Cic. *div. Caec.* 8: *iudiciorum levitate ordo quoque alius ad res iudicandas postulatur* ('It is because of the fickleness of the courts, too, that another order is demanded to decide cases').

⁷⁷ The only other examples I have found concern divine providence (Cic. *nat. deor.* 1.4, 2.164; Liv. 44.34.2).

‘moribund dispute’ by the time of Verres’ trial.⁷⁸ On this view, Cicero’s appeal to the jurors to preserve their judicial privileges is no more than a forensic ploy or a rhetorical motif. It is true that Cicero is the only source to indicate ongoing debate over the courts, but he does more than ‘imply’ it (Mitchell 1979, 134): the link between the trial and the future of senatorial juries is drawn repeatedly and explicitly.⁷⁹ The only hope of avoiding judicial reform, Cicero says, is to convict Verres; acquittal, on the other hand, would mean the certain transfer of the courts. This argument is particularly strong in the first *actio*, which was actually delivered and therefore had the potential to influence public debate.⁸⁰

Cicero might exaggerate the extent of the controversy or the importance of Verres’ trial within it, but, speaking before an audience of senators, he cannot have invented it.⁸¹ Indeed, he claims it as the widespread opinion of good men that acquitting Verres would mean the transfer of the courts (*Verr.* 1.20). It is also hard to see why Cicero would publish a fiction which made him out a failure, or at best not fully successful in his aims: Verres had been convicted, but Cicero had not prevented the transfer of the courts to what he regarded as an equestrian majority.⁸² Rather, it appears that the future of the courts was an open question in August 70. The senate, purged of its most disreputable members,⁸³ may yet have hoped to retain its monopoly—not unreasonably, if they had Pompey’s support. As Griffin (1973a, 206) points out, the defence’s efforts to delay the trial into 69 indicate that they, at least, did not anticipate any change in jury composition. Certainly the shape of judicial reform was not settled until after the first *actio*. Thus there is no reason to doubt that the trial—that is, the speeches that were actually delivered—formed a significant contribution to public debate on jury reform which may well have helped to shape the eventual compromise.⁸⁴

On the one hand, Cicero’s prosecution was a resounding success. Verres fled and was condemned *in absentia* without the need for a second hearing.⁸⁵ At the same time, the outcome was unsatisfactory both for Cicero and, he says, for the court. Verres’ failure to appear after the compulsory adjournment deprived Cicero of the grandstand he had hoped for, though he compensated,

⁷⁸ Mitchell 1979, 133–4; cf. Gruen 1974, 34–5; Butler 2002, 78.

⁷⁹ e.g. *Cic. Verr.* 1.1–3, 20, 49; 2.1.6, 20–3; 2.3.223–4.

⁸⁰ Cf. Brunt 1980, 286–7. ⁸¹ Cf. Brunt 1980, 287.

⁸² Cicero often speaks of *equites* and *tribuni aerarii* alike as equestrians: see e.g. *Cic. Flacc.* 4 and Brunt 1988, 210, with other examples.

⁸³ See ‘The censorship’, below.

⁸⁴ Note that many leading senators were present as jurors; the trial also attracted large crowds and significant public interest (*Cic. Verr.* 1.4).

⁸⁵ Lintott 2008, 90: ‘The second action would have been a formality, but it would still have been necessary for the praetor presiding to pronounce a verdict of “guilty”, probably after consulting the jury.’ *Litis aestimatio* followed.

to some extent, by publishing the speeches.⁸⁶ More importantly, Verres' flight deprived the jury of the opportunity to convict him while present. Conviction *in absentia* was not a true test of the ability of money and influence to corrupt a jury. These forces, says Cicero, will only be defeated when they are seen to be defeated (*victa videbuntur*, *Verr.* 2.1.3). Thus he tells the jury, in the introduction to the fictional second *actio*, 'the Roman people neither expect this from you, nor can they be satisfied, if a man is convicted who was unwilling to appear'—which is what had in fact happened.⁸⁷ Shortly afterwards, it seems, the *lex Aurelia* was proposed.⁸⁸ Writing after the passage of the law, Cicero here blames Verres' flight for the failure of himself and the senate to avoid jury reform. On top of this, Plutarch (*Cic.* 8.1) indicates that the damages awarded against Verres were considered inadequate: three million sesterces was a paltry figure compared with the 40 million originally claimed.⁸⁹ Apparently the Sicilians were satisfied (Plut. *Cic.* 8.2), but it was hardly the public trouncing that Cicero (and Pompey) had hoped for. Ultimately, Verres' trial might have looked uncomfortably like 'business as usual': another governor absconding to live in comfortable exile on the proceeds of crime.

Verres' flight was likely one reason why Pompey did not get his way over the courts. Another may have been pressure from the *equites* themselves. There is no evidence that the *equites* were behind the push for jury reform (Badian 1972, 96), but Ferrary argues that Lucullus' measures in Asia prompted them to join the debate, seeking control of the courts as a means of putting pressure on governors and thereby safeguarding their interests.⁹⁰ This is plausible. Cicero's allusion to Rutilius Rufus' fate (*Verr.* 2.3.94) can be read as a warning of what Lucullus and others might face in the future (Ferrary 1975, 341), and Plutarch (*Luc.* 20.5) indicates that Lucullus' equestrian opponents allied themselves with the tribunes.⁹¹ Equestrian lobbying might

⁸⁶ See *Cic. Verr.* 2.1.2, written as if Verres had decided to defend himself after all.

⁸⁷ *Cic. Verr.* 2.1.3: *Neque hoc a vobis populus Romanus expectat neque eo potest esse contentus, si condemnatus sit is qui adesse noluerit...*

⁸⁸ i.e. after the first *actio* but before Verres' (fictional) reappearance for the second: see Lintott 2008, 90–1.

⁸⁹ *Cic. Verr.* 1.40; cf. *div. Caec.* 19 (100 million). Lintott (2013, 144) doubts Plutarch's testimony that Cicero was accused of corruption.

⁹⁰ Ferrary 1975, 339: 'si les gouverneurs commençaient à prendre le parti des intérêts provinciaux, la participation au pouvoir judiciaire devenait à nouveau indispensable'. The sources for this period are contradictory, even on the sequence of major events; however, most scholars date Lucullus' reforms to the winter of 71–70 or early 70: see e.g. Ferrary 1975, 339; *MRR* 3.122; Sherwin-White 1992, 237–9; Keaveney 1992, 125, 128 n. 59; Brennan 2000, 564. Word of Lucullus' arrangements therefore will have reached Rome prior to the passage of the *lex Aurelia*. Indeed, Lucullus had offered a foretaste in 74, when he admonished the tax farmers and moneylenders and called on them to moderate their demands (Plut. *Luc.* 7.6).

⁹¹ Lucullus was threatened with prosecution on his return to Rome, perhaps for extortion or speculation or before a *iudicium populi*, though there is no evidence of equestrian involvement; possibly the prosecutor, C. Memmius, hoped to induce Lucullus to abandon his triumph. At any

well have forced a compromise, as Ferrary argues, especially if Pompey's colleague Crassus added his support. Conceivably, however, it was not only Lucullus' actions but also Pompey's well-publicized policy of protecting the provinces that alarmed the *equites*. In fact Lucullus was precisely the sort of governor that Pompey's programme was intended to promote, though Cicero's failure to make use of him as exemplar in the *Verrines* suggests that Pompey was competing rather than collaborating with Lucullus as protector of the allies.⁹²

Again, Crassus' attitude may have been a factor. Pompey and Crassus seem to have cooperated over the restoration of the tribunes' powers (Asc. 76C), but clashed soon afterwards.⁹³ The courts are a probable point of contention. Crassus is sometimes thought to have favoured mixed or equestrian juries, which would fit with his later support for the *publicani* (Cic. *Att.* 1.17.9 SB 17), though it is harder to reconcile with his good relations with the senate in 70 (Plut. *Pomp.* 22.3).⁹⁴ A possible solution is that Crassus supported Pompey and the senate initially but aligned himself with the *equites* in the course of the year. He was certainly politically flexible enough to do so—Plutarch (*Crass.* 7.7) remarks that Crassus often opposed and advocated the same measures within a short space of time—and a change of heart by one of the consuls might well have helped bring about the compromise that was the *lex Aurelia*.

While Verres' conviction *in absentia* had not quelled demand for judicial reform, it may have helped to moderate earlier demands for all-equestrian juries.⁹⁵ The law Cotta eventually passed is probably best seen as an accommodation between the two sides of the debate.⁹⁶ Henceforward the courts would be shared between senators, *equites*, and a third group, the *tribuni aerarii*.⁹⁷ This

rate the charge was dropped. See Plut. *Cat. Min.* 29.3; *Luc.* 37.1–2; *TLRR* no. 206; Ryan 1995, 299; Bellemore 1995, 505–6; Brennan 2000, 775 n. 112.

⁹² Cf. Ferrary 1975, 341. On the rivalry between Pompey and Lucullus, later at any rate, see the introduction ('Provincial reform before 70').

⁹³ Plut. *Crass.* 12.2; *Pomp.* 22.3. They were reconciled at the end of the year: *Crass.* 12.3–4; *Pomp.* 23.1–2.

⁹⁴ Taylor 1949, 219 n. 44; Ward 1977a, 107–8; Marshall 1976, 56.

⁹⁵ Cf. Taylor 1949, 112; B. A. Marshall 1975a, 148; Ferrary 1975, 338–9.

⁹⁶ So e.g. Taylor 1949, 112; Ward 1970, 67–9; Stockton 1973, 216–18; Griffin 1973a, 206; Marshall 1976, 56–7; Ferrary 1975, 335–9; Millar 1998, 70. As is often remarked, Cotta was not a *popularis* but *nobilissimus* (Cic. *Verr.* 2.2.174), not that the two were necessarily incompatible. Perhaps more surprisingly, he was a nephew of P. Rutilius Rufus, and his brother Gaius had defended Rutilius at his trial (Cic. *Brut.* 115). Both brothers were prepared to make concessions to popular demands, however. On C. Cotta, who as consul in 75 passed a law restoring the tribunes' right to hold higher magistracies, see *MRR* 2.96 and especially Sall. *hist.* 3.34.8, where he is called *ex factione media consul*.

⁹⁷ Asc. 17, 67, 78C. The *tribuni aerarii* formed a distinct *ordo* ranking below the *equites* (Cic. *Rab. perd.* 27) but held the equestrian census and could be referred to as *equites* in a non-technical sense (see e.g. Cic. *Flacc.* 4, where Cicero describes the fifty jurors drawn from the *equites* and *tribuni aerarii* together as leaders of the order of *equites Romani*). Cf. e.g. Wiseman 1970, 71–80; Nicolet 1980, 161–4.

solution seems to have been proposed only after Verres' flight.⁹⁸ Possibly Pompey helped to negotiate it, but that does not mean it was his first preference.

THE CENSORSHIP

Rather than a change to jury-composition, I suggest, with Griffin (1973a), that Pompey saw the solution to the problem of the courts in a combination of strong prosecutors, a censorial purge of the senate, and the promotion of higher standards of conduct for both jurors and governors.⁹⁹ The *lectio senatus* (the revision of the senate roll) was in effect a clean-up of the judicial album. Naturally this was not the only or even the most important duty of the censors elected in 70—they also had the task of enrolling as citizens hundreds of thousands of Italian allies¹⁰⁰—but it was vital if senatorial juries were to be retained.

In the *divinatio*, Cicero explicitly links the election of censors with the problem of judicial corruption: 'through the criminal and disgraceful behaviour of jurors even the title of censor, which in the past the people used to regard as rather harsh, is now being demanded, and has already become *popularis* and praiseworthy.'¹⁰¹ By the time of the first *actio* in August, the census had begun, or was imminent (*Verr.* 1.54). This should mean that the *lectio*, normally the censors' first major task, was already complete.¹⁰² At any rate, censors were in office and expected to address the problem of judicial

⁹⁸ Cic. *Verr.* 2.2.174 and 2.3.223–4 surely refer to Cotta, but his bill, as Cicero describes it, would have handed the courts to the *equites* rather than the three *ordines* of the law actually passed. Possibly Cotta originally proposed all-equestrian juries but later produced a more moderate bill (so e.g. B. A. Marshall 1975a, 146; Millar 1998, 70); alternatively, it may be that Cicero describes the bill imprecisely or imagines, for dramatic reasons, that the reform proposed was the one threatened at the time of the first *actio* (see e.g. Gelzer 1963, 171–2; Ward 1970, 69; Griffin 1973a, 206 n. 94; Gruen 1974, 29 n. 72; Ferrary 1975, 335–6; Brunt 1980, 285–6; Vasaly 2009, 107). For present purposes, what is significant is that the *lex Aurelia* as enacted was less extreme than earlier demands.

⁹⁹ Griffin 1973a, 206: 'Pompey may only have wanted the conviction of Verres and a new policy of firmness in the extortion court.' She also connects the election of censors with Pompey's provincial reform programme (204–5). Cf. Ferrary 1975, 338.

¹⁰⁰ See e.g. Dart 2014, 66–7.

¹⁰¹ Cic. *div. Caec.* 8: *iudicum culpa atque dedecore etiam censorium nomen, quod asperius antea populo videri solebat, id nunc poscitur, id iam populare et plausibile factum est.*

¹⁰² Censors were normally elected early in the year and entered office immediately (Mommson 1887, 341, 352). Even in 55, a year of delayed elections, censors were already in office in April (Cic. *Att.* 4.9.1 SB 85). The *lectio* was normally carried out immediately after the censors' entry into office and the letting of contracts for feeding the sacred geese (Mommson 1887, 419–20; Plut. *mor.* 287b–c; Beness 2009, 65 n. 16). Cic. *Clu.* 130 implies that, in 70, the purge of the senate continued after the passage of the *lex Aurelia*. However, there was no obstacle to the censors making further expulsions following the formal *lectio* or *recognitio equitum*: see Astin 1988, 488–90.

corruption.¹⁰³ In other words, Pompey had acted on his promise to attend to the problem of the courts (and the provinces) before any judiciary bill was proposed.¹⁰⁴

The censors elected in 70—Cn. Lentulus Clodianus and L. Gellius Publicola—were friends of Pompey.¹⁰⁵ Their success must have been largely due to him, and it is reasonable to suppose that their actions accorded with his policy.¹⁰⁶ Already as consuls in 72 Lentulus and Gellius had assisted Pompey's client Sthenius (Cic. *Verr.* 2.2.95). In 70 they facilitated the publicity coup that was Pompey's formal discharge from military service (Plut. *Pomp.* 22.3–6), and the enrolment of new citizens probably strengthened Pompey's *clientelae*.¹⁰⁷ Later, both Lentulus and Gellius served as legates in Pompey's pirate campaign (App. *Mith.* 95). It is worth noting, too, that Lentulus seems to have been scheduled to give evidence against Verres in the second *actio*.¹⁰⁸

Lentulus and Gellius conducted an especially thorough and harsh censorship.¹⁰⁹ They removed sixty-four members from the senate, including at least one consular.¹¹⁰ According to Cicero, they were particularly concerned with the reputation of the courts.

In invidiam porro magnam illa iudicia venerant. Etenim paucis postea mensibus alia vehemens erat in iudiciis ex notatione tabellarum invidia versata. Praetermitti

¹⁰³ The election of censors was publicly linked with the problem of the courts and Cic. *Clu.* 130 says the censors could not fail to take action on judicial corruption. Cf. Steel 2013a, 120, who comments that the severe censorship was 'a public demonstration that the Senate was capable of policing itself'.

¹⁰⁴ Cotta's bill was promulgated probably in September (see n. 43, above) and certainly not before the first *actio* (Cic. *Verr.* 2.5.178); at that time reform was merely threatened.

¹⁰⁵ This is generally accepted: e.g. Badian 1958, 281–2; Gelzer 1963, 173; Taylor 1949, 52; Wiseman 1969, 65; Gruen 1974, 44; Gabba 1976, 149; Twyman 1972, 858–9; Seager 2002, 39; Stone 2013, 115 n. 60. In addition to the data given in the text, note that Lentulus and Gellius as consuls had sponsored the law authorizing Pompey to make grants of citizenship in Spain (Cic. *Balb.* 19) and in 66 Lentulus publicly supported Pompey's appointment under the *lex Manilia* (Cic. *leg. Man.* 68). Pompey's connection with Gellius may date as early as 89, if the L. Gellius listed in first place in Pompeius Strabo's *consilium* is the censor of 70: see MRR 2.36; Gelzer 1963, 173.

¹⁰⁶ Gellius and Lentulus' election can be attributed to Pompey in view of their recent failure against Spartacus: Stone 2013, 115 n. 60; cf. Rosenstein 1990, 15 n. 19. For the same reason, they were unlikely to be on close terms with Crassus, who had replaced them (Steel 2013a, 120 n. 154). Griffin (1973a, 204 n. 79) suggests that the censors' actions may have been one of the causes of conflict between Pompey and Crassus, and points to Crassus' later reputation for *patrocinium malorum* (Sall. *Cat.* 48.8).

¹⁰⁷ See e.g. Taylor 1949, 52; Wiseman 1969, 65.

¹⁰⁸ Cic. *Verr.* 2.5.15; Alexander 2002, 259.

¹⁰⁹ Liv. *per.* 98 terms it *aspera censura*. Tellingly, even scribes came in for scrutiny (Cic. *Clu.* 126): according to Livy (24.18.7), only unusually diligent censors gave attention to orders below the *equites* (cf. Astin 1988a, 17). It was probably the experience of 70 that prompted the tribunes of 64 to obstruct the *lectio* (Dio 37.9.4) and Clodius to pass his law providing a legal basis for challenging expulsion from the senate: Tatum 1990, 40–1; 1999, 134.

¹¹⁰ P. Cornelius Lentulus Sura (cos. 71); see MRR 2.126 with references. Steel (2014, 666) suggests that many of those expelled were Sullan appointees who had not held public office.

ab censoribus et neglegi macula iudiciorum posse non videbatur. Homines, quos ceteris vitiis atque omni dedecore infamis videbant, eos hac quoque subscriptione notare voluerunt, et eo magis quod illo ipso tempore illis censoribus erant iudicia cum equestri ordine communicata, ut viderentur per hominum idoneorum ignominiam sua auctoritate <rem> reprehendisse. (Cic. *Clu.* 130)

Furthermore, those courts had fallen into great unpopularity. Indeed, a few months later, further violent ill-will was stirred up against the courts on account of the marking of the tablets. It did not seem possible for the stain upon the courts to be passed over and disregarded by the censors. They saw men who were infamous by reason of other offences and every dishonour and wanted to brand them further by this *scriptio* as well—and the more so because at the same time as these censors were in office the courts were shared with the *equites*—so that they should be seen to have passed judgement on the matter by their own authority, through the dishonour of deserving persons.

We need not accept Cicero's claim that the censors' actions were an unfounded bid for popularity.¹¹¹ In defending Cluentius, Cicero is at pains to downplay allegations of corruption concerning the earlier trial and the weight of the censors' verdict.¹¹² Elsewhere Cicero speaks favourably of the censors,¹¹³ and his comments in the *Pro Cluentio* are prefaced by a careful apology to Gellius and Lentulus (117–18). Moreover, the nature of the *lectio* was such that the censors were not constrained by fixed rules or judicial process.¹¹⁴ They were free to act on their own initiative, whether or not an accusation had been made or evidence produced.¹¹⁵ It was therefore legitimate for them to exclude members of the senate on the grounds of ill-repute. Their paramount concern, after all, was not misconduct by individuals—that was the domain of the courts—but the moral standards and reputation of the entire state.¹¹⁶

In fact we know of only two senators expelled for judicial corruption.¹¹⁷ Possibly the total number was much higher, and doubtless the deterrent effect

¹¹¹ Cic. *Clu.* 130; cf. 126.

¹¹² The real issue (though possibly not the legal issue) in Cluentius' trial was his earlier prosecution of Oppianicus: Cic. *Clu.* 1; see Alexander 2002, ch. 9. As Brunt (1980, 287) notes, it is telling that Cicero does not attempt to deny the corruption of Oppianicus' trial, but merely maintains that Cluentius was not the corrupter.

¹¹³ Cic. *Verr.* 2.5.15; *leg. Man.* 68; cf. *comm. pet.* 8. Cicero complained loudly when Clodius restricted censorial powers: Cic. *Pis.* 9; *dom.* 130; *har. resp.* 58; *prov. cons.* 46.

¹¹⁴ Except during the brief operation of the *lex Clodia*: see e.g. Tatum 1990, 39–41. Cic. *Clu.* 131 shows that no challenge procedure was available in 70–69. On the censors' discretion and independence, see Astin 1988a, 33.

¹¹⁵ Cic. *Clu.* 126. Cf. 131; Tatum 1990, 35–6.

¹¹⁶ In *De Legibus*, Cicero stresses the relationship between the character of the senate and the character of the state (3.10, 30–2); it is the role of the censors to ensure that the senate sets a good example (3.7, 28). Cf. Astin 1985, esp. 238–9. The *lectio* was perhaps the most important modality of the censors' *regimen morum*.

¹¹⁷ M'. Aquilius and Ti. Gutta, who had served as jurors at Oppianicus' trial: Cic. *Clu.* 127; cf. 131–2 on P. Popilius.

applied more widely.¹¹⁸ But, as we have seen, the misdeeds of a few had tarnished the senate as a whole. To redress this problem, it is possible that the censors portrayed themselves as ‘decimating’ the senate. A curious passage in the *Pro Cluentio* suggests this. Cicero argues that the expulsion of only two senators from Oppianicus’ jury exculpated the others (127). ‘For it is not in the least to be accepted,’ he adds, ‘that in imposing *nota* and censorial *auctoritas* they made use of the model of military practice’—that is, the practice of punishment by lot.¹¹⁹ Such an approach, he objects, would mean retaining in the senate men guilty of accepting bribes; moreover, if the censors were applying the military principle, they should have done so by drawing lots (129). It is hard to see why Cicero introduces this strange line of argument, unless he is responding to comments made by the prosecution—or, perhaps, by the censors themselves. If so, it would seem that the censors offered a particularly stern reprimand to the senatorial order as a whole.¹²⁰

The censors also gave attention to another key element of Pompey’s programme: the government of the provinces. The expulsion of Lentulus Sura, for instance, was a condemnation of corruption in the provinces as well as corruption in the courts. As praetor he had presided over the notorious trial of (A.?) Varro for misconduct in Asia,¹²¹ and the scandal must have reflected badly on him.¹²² Particularly revealing is the case of C. Antonius. Antonius, the future consul of 63, had not been involved in the judicial scandals of 74. Instead he was expelled from the senate ‘because he had plundered allies, because he had rejected a legal judgement, because he had made over estates on account of the size of his debts, and had no property of his own under his control’.¹²³ The judgement in question was for theft in

¹¹⁸ Cf. Ryan 1996, 200; Brunt 1980, 288. Note that the censors published reasons for their decisions: Cic. *Clu.* 120 refers to senators marked for theft and receipt of money; see Asc. 84C for the case of C. Antonius. More generally, the censorship was considered a strong deterrent to misconduct: Astin 1998a, 30.

¹¹⁹ Cic. *Clu.* 128: *Nam illud quidem minime probandum est, ad notationes auctoritatemque censoriam exemplum illos <e> consuetudine militari transtulisse.*

¹²⁰ It was not only senators who came under censorial scrutiny, however. The *eques* Cluentius was censured on account of his role in the Oppianicus affair (Cic. *Clu.* 156, 133); possibly, once the *lex Aurelia* was passed, the censors gave special attention to the *equites* and *tribuni aerarii*.

¹²¹ See *TLRR* no. 158. In addition, Lentulus himself is supposed to have escaped conviction at some point by bribing the jurors: Plut. *Cic.* 17.4; cf. Cic. *Att.* 1.16.9 SB 16; *TLRR* no. 219.

¹²² Presumably Lentulus as praetor was ultimately responsible for ensuring that the voting-tablets were waxed and distributed in accordance with law (see Cic. *div. Caec.* 24; *lex rep.* ll. 49–52). Griffin (1973a, 205 n. 87) argues that Lentulus’ involvement in the trial was the principal reason for his expulsion from the senate.

¹²³ Asc. 84C: *... quod socios diripuerit, quod iudicium recusarit, quod propter aeris alieni magnitudinem praedia manciparit bonaque sua in potestate non habeat.* Asconius here seems to quote the official *subscriptio* published by Lentulus and Gellius (*titulosque subscripserunt*); cf. Astin 1988a, 20 n. 25. The censors’ judgement was not forgotten even after Antonius’ political rehabilitation (*comm. pet.* 8). Note also that it was Pompey who later wished to have Antonius

Greece.¹²⁴ There may well have been other senators expelled on the grounds of misconduct in the provinces. Cicero (*Clu.* 120) refers to expulsions for *furtum* and *pecuniae captae*, which could include theft from allies, and Griffin suggests that P. Oppius was expelled for offences in Bithynia.¹²⁵

VERRES' SHOW TRIAL

So far I have considered Verres' trial primarily in connection with the question of jury reform, but the trial, along with the published speeches, also had a direct part to play in Pompey's scheme for the provinces. It should be seen, I suggest, not just as the prosecution of C. Verres for extortion in Sicily, but as a 'trial' of Roman provincial governance more generally, designed to promote better standards in the future.

At the opening of the first *actio* (1.4), Cicero refers to the anticipation surrounding his prosecution and the great crowd gathered to hear it. Later, he claimed that all eyes were on the court and that every mortal being had pronounced Verres' guilt (2.5.177). The audience was doubtless unusually large on account of the crowds gathered in Rome for the elections, the census, and the games (1.54). But, according to the *divinatio* speech, Cicero *expected* a large crowd: 'Even now in my mind and my deliberations I foresee the eagerness of the men who will flock together, what great expectation the importance of the trial will bring, how great the crowd of listeners that will be stirred up by the infamy of C. Verres.'¹²⁶ Even allowing for embellishment and self-aggrandizement, it appears that the trial was conceived from the outset as a spectacle and a showcase for the cause of provincial reform.¹²⁷ Its importance consisted not solely or even principally in Verres' crimes, but in the broader issues at stake.

As we have seen, Cicero was an unusual and impressive choice as prosecutor. His opponent was Rome's leading advocate. From that perspective alone, the trial promised a spectacle. Cicero later called it a 'duel' (*certamen*) between himself and Hortensius (*Brut.* 319), and at trial he told Hortensius, 'the whole matter will be between you and me'.¹²⁸ The case was also conducted before an

recalled and prosecuted for depredations in Macedonia: Cic. *Att.* 1.12.1 SB 12; see chapter 4, 'Pompey and the trials of 59'.

¹²⁴ See TLRR no. 141.

¹²⁵ Griffin 1973a, 205. Oppius faced trial in 69: TLRR no. 187.

¹²⁶ Cic. *div. Caec.* 42: *Iam nunc mente et cogitatione prospicio quae tum studia hominum, qui concursus futuri sint, quantam expectationem magnitudo iudici sit adlatura, quantam auditorum multitudinem infamia C. Verris concitatura...*

¹²⁷ On the trial as spectacle, see Vasaly 2009, esp. 108–14. Of course, for many listeners the real draw will have been the contest between Cicero and Hortensius.

¹²⁸ Cic. *Verr.* 1.33: *Res omnis mihi tecum erit, Hortensi.* Cf. 34–5.

exceptional jury. 'It is agreed among all', Cicero says in the first *actio*, 'that since the constitution of these courts as we now know them, there has been no jury panel of this splendour and *dignitas*.'¹²⁹ Despite Cicero's many references to corruption and warnings to the jurors, *this* jury was considered virtually incorruptible.¹³⁰ Cicero refers to the *fortuna populi Romani* that had produced such a panel (1.16). The very sight of the assembled jurors, he says, impressed even those most hostile to the senatorial order (2.1.19).

Griffin argues persuasively that the jury really was as outstanding as Cicero claims.¹³¹ Notable jurors included the consulars Q. Catulus (cos. 78), who earlier that year had denounced the corruption of the courts in the senate, and P. Servilius Vatia Isauricus (cos. 79), noted for his uprightness in Cilicia;¹³² C. Claudius Marcellus (pr. 80), an hereditary patron and former governor of Sicily (Cic. *Verr.* 2.3.45, 212); a brother of the prosecution witness T. Fannius (2.1.128); the aedile-designate M. Caesonius, who had helped to expose the corruption at Oppianicus' trial (Cic. *Verr.* 1.29; Ps-Asc. 216St); and other men elected to magistracies for 69.¹³³ These comprised a considerable proportion of the jury, which probably included no more than fifteen men.¹³⁴ Equally revealing are the jurors rejected by the defence, including C. Cassius (cos. 73), who instead became a witness for the prosecution (Cic. *Verr.* 2.3.97); Sex. Peducaeus (pr. 77), a former governor of Sicily, highly praised by Cicero;¹³⁵ and P. Cervius, who had been Verres' legate (2.5.114).¹³⁶

It is hard to believe that chance assembled a panel containing so many consulars, patrons of Sicily, and enemies of corruption, even after Verres' six challenges. It was not only an impressive array, but one which could be relied upon to produce a conviction with maximum *auctoritas* (Cic. *Verr.* 1.16–17). Griffin may therefore be right in suspecting that the praetor Glabrio (and, behind him, Pompey) assisted *fortuna* in selecting the panel.¹³⁷ Glabrio seems

¹²⁹ Cic. *Verr.* 1.49: *Constat inter omnis post haec constituta iudicia, quibus nunc utimur, nullum hoc splendore atque hac dignitate consilium fuisse*. The claim is repeated at 2.1.18–19.

¹³⁰ See e.g. Cic. *Verr.* 1.10, 49.

¹³¹ Griffin 1973a, 206; Cic. *Verr.* 1.16, 49; 2.1.19. For a full list of jurors, including those rejected by the defence, see McDermott 1977a, 66–9, with references.

¹³² Cic. *Verr.* 2.1.56–7, 2.3.210, 2.4.82. Cicero uses Servilius as an example of how a commander should behave abroad; cf. *Att.* 6.1.16 SB 115 with Shackleton Bailey 1965–70, 3.249.

¹³³ See McDermott 1977a, 66–9. Note in particular Cn. Tremellius Scrofa (Cic. *Verr.* 1.30), one of the governors of the east praised by Cicero in February 50 (*Att.* 6.1.13 SB 115).

¹³⁴ According to Cicero, eight members amounted to nearly the whole jury (*Verr.* 1.30: *prope toto... consilio*) or at least a large part of it (2.1.30). See Lintott 2008, 87–8; Brunt 1988, 234; contra McDermott 1977a, 74–5.

¹³⁵ Cic. *Verr.* 2.1.18, 2.2.138, 2.3.216. Cicero had served as quaestor under Peducaeus.

¹³⁶ Note also P. Sulpicius Galba (2.1.18), described by Asc. 82C as *sobrius* and *sanctus*, and Q. Considius (2.1.18), who apparently was among the honest *iudices* in 74 (*Clu.* 107).

¹³⁷ Griffin 1973a, 206. Glabrio presided over the sortition and challenging of jurors (Cic. *Verr.* 1.41, cf. 16–17). There may have been further opportunities for interference as well. The urban praetor was responsible for compiling the *album* of jurors, drawing up the *decuriae*, and assigning to each trial the *decuria* from which the final jury would be drawn (see Greenidge 1901,

to have been a supporter of Pompey, or at any rate amenable to cooperation;¹³⁸ possibly his appointment was not entirely random, either.¹³⁹ Certainly Verres feared Glabrio;¹⁴⁰ whether due to his reputation for diligence and integrity or to actual hostility is not clear, but it is worth noting that Glabrio supported Cicero's efforts to collect witnesses in Sicily (Cic. Verr. 2.2.64) and accommodated his unorthodox manner of conducting the trial.¹⁴¹

Two further pieces of evidence confirm the extraordinary quality of the jury: Verres' attempt to have jurors removed before the trial began by arranging for the president of another court to draw on the *decuria* assigned to his trial,¹⁴² and the defence's strategy of prolonging the trial into 69, when a large part of the jury would have to be replaced.¹⁴³ I suggest it was this circumstance, as much as the influence of Hortensius and the Metelli, that commended the strategy. Evidently Verres considered his six challenges inadequate, and rated his chances better with *any* jurors other than those assigned to his trial.

As for the defendant himself, Cicero portrays Verres as the worst of governors, the perpetrator of a vast number and variety of crimes.¹⁴⁴ He sums up, at the close of the first *actio*, 'We maintain that C. Verres has not only committed many licentious and cruel acts against Roman citizens and allies, many heinous acts against gods and men, but in addition that he has also carried off HS 40 million from Sicily, contrary to law.'¹⁴⁵ The opening of

437–9). Cic. Verr. 2.1.158 might suggest that the *decuria* assigned to Verres' trial was itself exceptional. In 70 the *praetor urbanus* was probably M. Mummius (MRR 2.127); we know virtually nothing about him, but it is worth noting that he was one of the addressees (along with the consuls and quaestors) of L. Metellus' report from Sicily: Cic. Verr. 2.3.123. Cf. McDermott 1977a, 73.

¹³⁸ e.g. Gruen 1974, 131; Hayne 1974, 281–2; cf. Williams 1984, 225.

¹³⁹ The presidency of the *quaestio repetundarum* was determined by lot (Cic. Verr. 1.21), but the process could be manipulated: Cic. fam. 5.2.3 SB 2; Brennan 2000, 581. Stockton (1971, 44 n. 8) suggests that the lottery was rigged to give M. Metellus the extortion court for 69.

¹⁴⁰ According to Cicero (Verr. 1.29), Verres considered Glabrio 'too conscientious and too devoted to the judgement of the people' (*nimum diligentem, nimum servientem populi existimationi*). The prospect of M. Metellus rather than Glabrio as praetor was the key attraction of prolonging the trial into 69 (1.26, 2.1.30).

¹⁴¹ Cicero praises Glabrio's *sapientia*, *auctoritas*, and *diligentia* (Verr. 1.51) and declares that with Glabrio, 'a most upright and honest praetor' (*integerrimus atque honestissimus praetor*), presiding over the court, Verres cannot escape (1.52). Glabrio's family background also commended him. Glabrio's father had been the author of the *lex Acilia de pecuniis repetundis* which, says Cicero, gave Rome *optima iudicia* and *severissimi iudices* (1.51); interestingly, these were *equites*. On Glabrio's role in the trial, cf. Hayne 1974, 281; Stockton 1971, 46–7. On Cicero's strategy, see e.g. Lintott 2008, 88–94.

¹⁴² Cic. Verr. 2.1.158; cf. Greenidge 1901, 439. Cicero thwarted the attempt with popular support.

¹⁴³ Cic. Verr. 1.29–30. Even before the elections for 69, the defence was attempting to delay the trial by interposing another case with a shorter *inquisitio* (1.6).

¹⁴⁴ e.g. Cic. Verr. 2.1.21 claims that Verres' crimes exceed the sum total of all previous criminals.

¹⁴⁵ Cic. Verr. 1.56: *Dicimus C. Verrem, cum multa libidine, multa crudeliter in civis Romanos atque socios, multa in deos hominesque nefarie fecerit, tum praeterea quadringentis sestertium ex Sicilia contra leges abstulisse.*

the second *actio* adds sanctuaries despoiled, innocent persons murdered, Roman citizens crucified, and pirate chiefs allowed to go free.¹⁴⁶ Hundreds of pages detail innumerable forms of extortion; in addition, says Cicero, charges could be brought in the courts for *peculatus*, for *maiestas*, and before the people.¹⁴⁷ Cicero's Verres is a villain par excellence.

This testimony must be taken with a large pinch of salt. It was in the prosecutor's interest to demonize the defendant and the fact that the *Verrines* are the only surviving example of a prosecution speech further skews the picture. There is no compelling reason to believe that Verres was any worse than others.¹⁴⁸ The damages ultimately awarded cast doubt on the extremity of Cicero's claims, as does the fact that many of Verres' alleged depredations were in aid of the Roman state. Cicero (again, perhaps, with Pompey's backing) would successfully use much the same argument in defending Fonteius the following year.¹⁴⁹ Arguably, the defendant was one of the least remarkable aspects of Verres' trial,¹⁵⁰ but he stands for all that was bad in Roman provincial government in the same way that Q. Mucius Scaevola stands for the good.¹⁵¹ At one point Cicero remarks that the whole practice of extorting grain is on trial in the form of Verres.¹⁵² Indeed, the *Verrines* can be read as a critique of the contemporary practice of Roman imperialism.

Some of the harshest criticism of Roman provincial government belongs to the section of *de frumento* dealing with the requisition of grain for the governor's maintenance. Verres had exploited the system to extort money instead of grain at a vastly inflated price. Cicero anticipates Hortensius' reply: not to deny the charge or the injury to the Sicilians, but to say that other governors had done the same (*fecisse alios*, 2.3.205). Cicero responds that this should be grounds for convicting others rather than exculpating Verres (2.3.205–6) and proceeds to attack the broader practice of Roman imperialism:

Lugent omnes provinciae, queruntur omnes liberi populi, regna denique etiam omnia de nostris cupiditatibus et iniuriis expostulant; locus intra Oceanum iam

¹⁴⁶ Cic. *Verr.* 2.1.9; cf. 2.5.179. I do not propose to deal with the vast number of specific allegations.

¹⁴⁷ Cic. *Verr.* 2.1.11–14. At 2.4.88 Cicero claims that Verres could be charged with extortion, *peculatus*, *maiestas*, impiety, and cruelty in connection with the theft of a single statue; cf. e.g. 2.3.82–4 (*peculatus*) and 2.5.173 (*iudicium populi*). The overlap between *repetundae* and *maiestas* is discussed in chapter 4, 'The *lex Julia* and *maiestas*'.

¹⁴⁸ See e.g. Gruen 1971, 12; Alexander 2002, 59–60 (cf. 88–9, 109); Stone, forthcoming.

¹⁴⁹ Cf. Alexander 2002, 59–60. According to C. Julius Victor (400 Halm) Cicero was obliged to distinguish Fonteius from Verres.

¹⁵⁰ Alexander (2002, 60) argues that Verres' trial should be seen as 'a commonplace and typical example of an extortion trial'. Cf. Gruen 1971, 12.

¹⁵¹ Cf. e.g. Steel 2001, 24, who notes that Verres became 'the epitome of the corrupt governor' and remained so in Juvenal's day (*sat.* 2.26, 3.53, 8.106).

¹⁵² Cic. *Verr.* 2.3.218: *in hoc homine rem adductam in iudicium videtis* ('in this man you see the matter brought to trial'). Cicero is referring particularly to abuses connected with the governor's maintenance allowance.

nullus est neque tam longinquus neque tam reconditus quo non per haec tempora nostrorum hominum libido iniquitasque pervaserit; sustinere iam populus Romanus omnium nationum non vim, non arma, non bellum, sed luctum, lacrimas, querimonias non potest. (Cic. Verr. 2.3.207)

All the provinces are in mourning, all free peoples are complaining, and indeed even all foreign kingdoms are protesting about our greed and injustice; there is now no place within Ocean so far off or so out of the way that in these times the lust and unfairness of our people has not penetrated it; it is not violence, arms, or war that the Roman people can no longer bear, but the sorrow, tears, and complaints of all nations.

As Lintott points out, this is a more powerful critique of Roman imperialism than the often-quoted passage from *Pro Lege Manilia* (68).¹⁵³ The misery of the allies 'is worse than armed rebellion and the Roman people cannot stand against it' (Lintott 2008, 99). But it is not merely pity that threatens to overcome the Roman people. Cicero goes on to say that, if criminal men are allowed to escape conviction, 'there will be no safety for the republic' (*rei publicae salus deerit*, 2.3.207).¹⁵⁴ Cicero does not spell out what he means, but he seems to be suggesting that Roman misgovernment in the provinces is now a greater threat to Rome than enemy arms. This is a powerful argument combining ethics and self-interest, and one we will encounter again in the 60s and 50s.¹⁵⁵ In 70, with the disaster of 88 etched in Roman minds (Cicero mentions it at 2.2.51) and Mithridates still in the field, its implications cannot have been lost on Cicero's audience.¹⁵⁶

On the one hand, Cicero's comments are a critique of senatorial courts and the (reputed) reluctance of senators to convict fellow senators. But Cicero's attack goes much further than that. He asks, 'Are you satisfied with men's *mores*? Is it acceptable for magistracies to be conducted as they are? That the allies should be treated, in the future, as you see they have been treated in recent times?'¹⁵⁷ If not, he says, the way forward is to convict Verres and, by punishing one man, correct the behaviour of many others (2.3.208).

¹⁵³ Lintott 2008, 99, also noting the similar passage at Cic. Verr. 2.5.126–7. Lintott suggests that such statements may have been commonplace in extortion trials. We have no other examples to compare. However, the fact that similar passages are found in the *Verrines* and *Pro Lege Manilia* strengthens the link with Pompey's policy.

¹⁵⁴ Cf. Cic. Verr. 1.1, where Cicero terms the reputation of senatorial juries 'ruinous to the republic and dangerous to yourselves' (*perniciosa rei publicae vobisque periculosa*).

¹⁵⁵ See esp. chapter 2, 'Pro Lege Manilia' and chapter 6, 'The Parthian threat, 51–50'. Lucullus had matters under control in 70, however.

¹⁵⁶ The sources draw a strong connection between Roman greed and injustice (the same evils identified in Cic. Verr. 2.3.207) and Mithridates' success in 88 (e.g. App. *Mith.* 16; Just. *ep. Trog.* 38.7.8). Roman greed is also the overarching theme of Sallust's 'Letter of Mithridates', a striking example of Roman self-criticism with a dramatic date just a year or two after Verres' trial.

¹⁵⁷ Cic. Verr. 2.3.208: *Placent vobis hominum mores? placet ita geri magistratus ut geruntur? placet socios sic tractari, quod restat, ut per haec tempora tractatos videtis?*

This appeal is directed notionally to Verres' jurors but in fact towards the senatorial order as a whole. It is a call to redefine the *mores* of provincial governance. One means of doing so was to ensure that the courts were effective guardians of justice. Another was to set the right example of how the provinces should be governed.

EXEMPLA IN THE VERRINES

Exempla—specific stories or individuals invoked with didactic intent—were, for the Romans, core tools of moral education.¹⁵⁸ As I noted in the introduction, Cato the Censor and Scaevola the Pontifex had already employed *exempla* in an effort to improve standards of provincial government. The *Verrines*, too, perform an exemplary function. Cicero attributes the decline in *mores* to the fact that men were following the wrong examples.¹⁵⁹ He seeks to correct this not only by condemning bad behaviour in the person of Verres, but also by showcasing *exempla* of appropriate behaviour. In this way, Cicero can be seen to be directly promoting Pompey's objective of improving provincial governance by providing ethical guidance for future governors.

One name that recurs in the speeches is Q. Mucius Scaevola (cos. 95).¹⁶⁰ Not only does the historical Scaevola appear as a model of propriety, but the very name Q. Mucius serves as shorthand for the ideal governor, the precise opposite of Verres.¹⁶¹ Scaevola was a favourite *exemplum* for Cicero; indeed, the senate had commended Scaevola's governorship of Asia as a model for others (Val. Max. 8.15.6). He was a natural figure to invoke in an extortion trial. Debate over jury composition would also rouse memories of Scaevola and Rutilius.¹⁶² But it is also possible that Scaevola's prominence in the *Verrines* was directly connected with Pompey's agenda in 70. Scaevola

¹⁵⁸ See e.g. Skidmore 1996, ch. 2 and Ayer 2010, with further references. On *exempla* in the *Verrines*, cf. van der Blom 2010, esp. 73–80.

¹⁵⁹ Part of the reason for Verres' badness, Cicero suggests, was that he had chosen the wrong *exempla* to imitate (Verr. 2.3.213; van der Blom 2010, 76). Cf. e.g. Verr. 2.3.209–10.

¹⁶⁰ In addition to the passages in n. 161, see Cic. Verr. 2.2.51, 2.2.122, 2.3.209, 2.4.133.

¹⁶¹ Cic. div. Caec. 57: *Est adhuc, id quod vos omnis admirari video, non Verres, sed Q. Mucius.* ('So far, and I see you are all astonished by it, he is not Verres but Q. Mucius.') Verr. 2.2.27: *quis erit unquam posthac reus tam perditus qui non ad Q. Muci innocentiam referatur, si cum isto conferatur?* ('Who will ever be prosecuted henceforth who is so guilty that he will not be credited with Scaevola's innocence if he should be compared with *this* man?') 2.2.34: *cohors non Q. Scaevolae... sed C. Verris* ('the staff not of Q. Scaevola... but of C. Verres').

¹⁶² See under 'The *Verrines* and the courts' on Cic. Verr. 2.3.94.

embodied the sort of governor Pompey wished to see in Rome's provinces; he was, furthermore, the father of Pompey's wife Mucia.¹⁶³

Another key exemplar is Scipio Aemilianus. Cicero contrasts Verres' thieving with Scipio's actions in repatriating Sicilian statues after the fall of Carthage. 'Behold the virtue and diligence of the man', says Cicero, 'that you may rejoice in home-grown examples of the most splendid virtue, and judge the incredible audacity of *this* man [Verres] the more deserving of hatred on that account.'¹⁶⁴ A little further on, he presents Scipio as an example for all Romans, including a *novus homo* like himself: 'I busy myself with those things in which he stood first: *aequitas, industria, temperantia*, defence of the wretched, and enmity to bad men.'¹⁶⁵ Here Scipio, like Scaevola, stands for an ideal of Roman rule that was the antithesis of Verres.¹⁶⁶

But Cicero seems particularly interested in contemporary examples, which show that virtue is possible not only in the age of Scipio but in the age of Verres.¹⁶⁷ For instance, Verres had claimed precedents for his actions regarding the requisitioning of grain. Cicero asks who these precedents are—'will you [Hortensius] remind me of Africanuses and Catos and Laeliiuses, and say that they have done the same?'¹⁶⁸ Even more recent examples, says Cicero, offer no precedent for what Verres did—will he then appeal to the moral corruption of the present day? 'I do not shun even present *mores*', Cicero goes on, 'so long as we follow such of these examples as the Roman people approves and not those that it condemns.'¹⁶⁹ In other words, appropriate conduct in the

¹⁶³ Asc. 21C calls Pompey's wife *Scaevolae filia*. 'Scaevola' without further specification must refer to one of the famous Scaevolae of the previous generation, and Q. Mucius Scaevola 'the Augur' (cos. 117) may be excluded, both by reason of age (see Cic. *Brut.* 211) and because a daughter of the Augur and his wife Laelia could not have been the half-sister of Metellus Celer (Cic. *fam.* 5.2.6 SB 5; cf. Tatum 1999, 34–6). The wife of the Pontifex is not known, but see Eilers and Milner 1995, 80–4 for some possible epigraphic evidence. He was murdered in 82 (see e.g. App. *BC* 1.82).

¹⁶⁴ Cic. *Verr.* 2.4.73: *videte hominis virtutem et diligentiam, ut et domesticis praeclarissimae virtutis exemplis gaudeatis et eo maiore odio dignam istius incredibilem audaciam iudicetis.*

¹⁶⁵ Cic. *Verr.* 2.4.81: *in his rebus pro mea parte versor quorum ille princeps fuit, aequitate, industria, temperantia, defensione miserorum, odio improborum.*

¹⁶⁶ Cf. Vasaly 1993, 118–20.

¹⁶⁷ Cic. *Verr.* 2.1.55–6 lists men like M. Marcellus and Aemilius Paullus who defeated kings and cities without adorning their own homes, but adds that some people consider these examples old-fashioned and obsolete, since they belong to a lost age of *virtus* and *innocentia*. This is somewhat surprising, in view of the usual emphasis on *mos maiorum* and Cicero's use of these *exempla* elsewhere in the *Verrines*; cf. Gildenhard 2011, 71–3; Vasaly 1993, 119–20. See also Cic. *off.* 2.76 on the *abstinentia* of Scipio's times. In *Verr.* 2.3.211 Cicero suggests that Hortensius preferred recent *exempla*, but this must be read in the context of Cicero's argument that no precedent for Verres' action was to be found in any era; cf. van der Blom 2010, 74.

¹⁶⁸ Cic. *Verr.* 2.3.209: *Africanos mihi et Catones et Laelios commemorabis et eos fecisse idem dices?*

¹⁶⁹ Cic. *Verr.* 2.3.210: *Non fugio ne hos quidem mores, dum modo ex his ea quae probat populus Romanus exempla, non ea quae condemnat sequamur.*

provinces is a matter of choosing appropriate *exempla*, and two were to be found among the jury: P. Servilius Isauricus and Q. Catulus, *principes civitatis*, whose great deeds and great *auctoritas* ranked them with the leading men of ages past (Cic. Verr. 2.3.210). Both had recently commanded armies; neither offered any precedent for what Verres had done (2.3.211). Similarly, when Cicero inquires after precedents among Verres' predecessors in Sicily, he points to another juror, C. Marcellus. Marcellus had not taken money in lieu of corn, though Cicero adds that no praise is due on that account, but rather for Marcellus' actions in restoring health to the province (2.3.212).¹⁷⁰

Servilius serves as exemplar elsewhere as well. Discussing Verres' art theft in the east, Cicero invokes the *recens exemplum* of Servilius at Olympus in 77 (2.1.56–7). Whereas Verres had pilfered works of art from sanctuaries and private homes, what Servilius took he captured in accordance with the laws of war, brought to Rome for the enjoyment of the people, and detailed in the accounts he submitted to the treasury. Indeed, Cicero adduces the accounts themselves as a model of *diligentia* and a contrast with Verres' incomplete and fraudulent records (2.1.60–1). Since Servilius' actions had no bearing on Verres' case, it is a reasonable surmise that this material is directed at future governors who might read the speeches. Cicero adds, 'Assuredly, the delight of virtue and victory is greater than that pleasure which is seized through wantonness and desire.'¹⁷¹ In this way, he exhorts Roman magistrates to pursue the virtuous path of a Servilius rather than the criminal path of a Verres. As for the jurors, Cicero emphasizes that they too are responsible for setting an example, both of the administration of justice, and for future provincial governors.¹⁷² Verres' trial is an opportunity to pass verdict on corrupt and greedy governors everywhere (2.3.218). An acquittal would set a precedent for still worse extortion and the certain ruin of the provinces (2.3.218–25). A conviction, on the other hand, would deter many men from wrongdoing (2.3.208).

Regarding Sicily specifically, Cicero argues for a return to the balance, established by the *maiores*, between Rome's interests and the allies'. Cicero points to the wisdom of past generations in providing that the Sicilian tithes should continue to be sold in accordance with the law of Hiero (2.3.14–21). Verres had departed from that system, to the detriment both of the allies and (in the longer term) of Roman interests (2.3.21). Responding to Verres' claim that he had sold the tithes for a high price, Cicero asserts that he had disregarded the law, the senate, the *exempla* of previous governors, and the future viability of farming in Sicily (2.3.40–3). 'Do you think,' he asks,

¹⁷⁰ Cf. Cic. Verr. 2.3.119, 138, 214, 216 on P. Licinius Sacerdos and Sex. Peducaeus.

¹⁷¹ Cic. Verr. 2.1.57: *Certe maior est virtutis victoriaeque iucunditas quam ista voluptas quae percipitur ex libidine et cupiditate.*

¹⁷² e.g. Cic. Verr. 2.3.225; cf. van der Blom 2010, 76.

‘that you have performed a great deed if you sold [the tithes] for a higher price than L. Hortensius, father of this very Q. Hortensius, than Cn. Pompeius, than C. Marcellus, who did not depart from fairness, from the law, or from established practice?’¹⁷³

It is probably significant that Pompey is one of the three exemplars chosen by Cicero from among Verres’ many predecessors, all of whom, he says, had sold the tithes in accordance with Hiero’s law.¹⁷⁴ Later, at least, Pompey’s administration of Sicily was remembered as a model of uprightness and consideration towards the allies: Diodorus (38/39.20) emphasizes Pompey’s austerity, *σωφροσύνη*, *ἀρετή*, and his skill and incorruptibility in the administration of justice; Plutarch says that Pompey was able to recover cities treated harshly by M. Perperna by means of his *φιλανθρωπία* (*Pomp.* 10.2), took special precautions to prevent his soldiers from harming or plundering the Sicilians (*mor.* 203c; *Pomp.* 10.7), and gained Sthenius as guest-friend by pardoning him and his city (*Pomp.* 10.6–7; *mor.* 203d).¹⁷⁵ Possibly this tradition was already circulating in 70, alongside less favourable memories of Pompey’s early career.¹⁷⁶ Cicero offers much the same account of how Pompey pardoned Sthenius, earning the *gratia* of the whole province in the process (*Verr.* 2.2.113), and his comment on Pompey’s handling of the tithes accords with Diodorus’ assessment of Pompey in Sicily. Certainly it would be consistent with Pompey’s later initiatives if, in 70, he figured as one of the *exempla* of his own reform project.¹⁷⁷

POMPEY’S REFUSAL OF A PROVINCE

One further aspect of Pompey’s consulship warrants attention. Velleius records that ‘as consul, [Pompey] most laudably swore an oath, and kept it, that he would not proceed from that magistracy to any province’.¹⁷⁸ It is

¹⁷³ Cic. *Verr.* 2.3.42: *magnum te fecisse arbitrare si pluris vendideris quam L. Hortensius, pater istius Q. Hortensi, quam Cn. Pompeius, quam C. Marcellus, qui ab aequitate, ab lege, ab institutis non recesserunt?*

¹⁷⁴ Cic. *Verr.* 2.3.15–16, 21, 123. In fact all three men had a special connection with the trial: L. Hortensius was the father of Verres’ defence counsel; C. Marcellus a juror and patron of Sicily.

¹⁷⁵ This material may derive from Posidonius: see e.g. Strasburger 1965, 44; García Moreno 1992, 136–9.

¹⁷⁶ Contrast Pompey’s harsh treatment of (Roman) enemy leaders (see e.g. Plut. *Pomp.* 10.3–4, 16.4–5; Val. Max. 6.2.8), though he showed mercy to rank-and-file (Cic. *Verr.* 2.5.153; Plut. *Pomp.* 10.5, cf. 20.4).

¹⁷⁷ Cf. chapter 2 and chapter 4, ‘Pompey and the trials of 59’.

¹⁷⁸ Vell. 2.31.1: *qui cum consul perquam laudabiliter iurasset se in nullam provinciam ex eo magistratu iturum idque servasset*. We do not know whether Crassus made the same undertaking, but he too remained in Rome at the end of 70 (Plut. *Pomp.* 23.3–4).

significant that Velleius says Pompey acted *perquam laudabiliter*, even if he did so with the intention of securing a greater command in the future.¹⁷⁹ Pompey's action can be understood in connection with his provincial reform programme. In the 50s, certainly, to refuse a province was reckoned the act of an honest man.¹⁸⁰ The same was true in 63, when Cicero declined his province,¹⁸¹ and probably in the 90s, when Q. Mucius Scaevola (cos. 95) turned down a *provincia*, 'in the desire for which many men—even good men—had done wrong'.¹⁸² Pompey may well have had Scaevola's example in mind when he announced that he would not take a province. There is little evidence of magistrates refusing commands prior to 70;¹⁸³ afterwards, however, the practice seems to have become increasingly common, perhaps due in part to Pompey's example.¹⁸⁴ L. Lucceius, who as praetor in 67 declined the province of Sardinia, might then be seen as an early imitator of his friend Pompey. According to Dio, Lucceius 'hated the business because of the many who were not acting soundly in the provinces'.¹⁸⁵ His comments, perhaps made in a public speech, also resonate with the activity of Pompeian tribunes that year in the interests of provincials.¹⁸⁶

Of course, good men refusing provinces would not in itself assist the allies. As Badian (1970, 31) puts it, 'Every Hortensius or Cicero or Bibulus gave a year to a Verres or a Catiline.' By 52 a rethink was necessary: Pompey's own *lex de provinciis* seems to have made it harder for men to refuse provinces.¹⁸⁷ In 70, Cicero urged that a succession of virtuous governors would be required

¹⁷⁹ See e.g. Vervaet 2010, 146–9.

¹⁸⁰ See chapter 7, 'The senate's control over provincial appointments'.

¹⁸¹ Cicero declared that he resigned his province for the sake of the *res publica*—that is, due to the threat posed by Catiline—but he also claimed the fact as evidence of his ethical qualities (see Cic. *Cat.* 4.23; *fam.* 5.2.3 SB 2, 15.4.13 SB 110).

¹⁸² Asc. 15C: *cuius cupiditate plerique etiam boni viri deliquerant. Provincia* in this passage probably refers to provincial command in general rather than any particular province (see Kallet-Marx 1989, 309; Brennan 2000, 551 n. 215).

¹⁸³ The evidence is patchy, but during the 70s only one other consul, P. Lentulus Sura (cos. 71), is known not to have gone to a province: Balsdon 1939, 63.

¹⁸⁴ Steel 2013a, 119 n. 149. Cf. Brennan 2000, 400–1. On the phenomenon of men refusing provinces, see Rafferty 2016, ch. 5 (and esp. 228–9 on Pompey).

¹⁸⁵ Dio 36.41.1: *διὰ τοὺς πολλοὺς τοὺς οὐδὲν ὑγιεῖς ἐν τοῖς ἔθνεσι δρῶντας*. Dio calls the praetor 'Lucullus', convincingly emended to 'Lucceius' by Hölzl (see MRR 2.143; Brennan 2000, 455)—that is, probably, L. Lucceius Q.f., the historian and consular candidate for 62. On Lucceius and his friendship with Pompey, see e.g. Anderson 1963, 29–34; Cornell 2013, 1.335. Dio goes on to note Lucceius' mild (*ἐπιεικής*) character. Cicero (*Cael.* 52, 54–5) attests his *integritas*, *gravitas*, *sapientia*, *moderatio*, and *humanitas*.

¹⁸⁶ Cicero resigned his province in a *contio* and afterwards published the speech (Cic. *fam.* 5.2.3 SB 2; *Att.* 2.1.3 SB 21; *Pis.* 5). Cf. Brennan 2000, 401. It is also possible Lucceius treated the episode in his own history, on which see Cornell 2013, 1.336–7. On the tribunes of 67, see Griffin 1973a, 208–9 and below ('Pompey's programme and the tribunes of 67').

¹⁸⁷ See Steel 2012, 91 and chapter 7, 'The *lex Pompeia de provinciis*'.

if Sicily was ever to recover.¹⁸⁸ Still, staging a refusal to make an ethical point might have helped to promote ethical change. Indeed, the idea that the best governors were those who had previously refused provinces persisted even as Rome moved to make service compulsory.¹⁸⁹ There are hints of similar thinking in 67, in connection with the *lex Gabinia* creating Pompey's command against the pirates. The speech Dio assigns to Gabinius responds to Pompey's feigned unwillingness with the argument that tasks should be given not to those who seek them, but to those who are capable (36.27.2–3). It is possible Dio here preserves traces of contemporary rhetoric.¹⁹⁰ At any rate, when viewed in the light of his broader reform interests, Pompey's *recusatio* looks less idly disingenuous.

POMPEY'S PROGRAMME AND THE TRIBUNES OF 67

Pompey did as consul what he had promised as consul-elect. Both publicly and from behind the scenes he orchestrated a reform programme that sought to put the entire administration of Rome's empire on a sounder footing by providing for vigorous prosecutors, stricter courts, and rigorous censorship, as well as positive *exempla* of good governance. The best-known act of Pompey's consulship, the restoration of the tribunes' powers, can also be seen, in part, as an element of this project. There was a long tradition of tribunician legislation in the interests of provincials—most of the *leges repetundarum* were passed by tribunes—and in the years following 70 we again find tribunes sponsoring laws for the protection of foreigners.¹⁹¹ Significantly, at least two of these tribunes—A. Gabinius and C. Cornelius—had ties to Pompey.¹⁹²

Griffin (1973a) makes a strong case that Gabinius and Cornelius (both tribunes in 67) were continuing Pompey's programme. Several pieces of

¹⁸⁸ Cic. *Verr.* 1.12, 2.3.21, 2.3.128.

¹⁸⁹ See chapter 7, 'The senate's control over appointments'.

¹⁹⁰ Cf. Steel 2001, 117, 123–4; Millar 1998, 81.

¹⁹¹ In addition to those discussed here, note the *lex Antonia de Termessibus* (RS no. 19), probably of 68, which protected the rights and property of Termessus Maior in Pisidia. Ironically the principal sponsor of the law was C. Antonius (cos. 63), who had been expelled from the senate in 70 partly on account of his mistreatment of allies (Asc. 84C), but several other tribunes involved with the law had ties to Pompey (Griffin 1973a, 211).

¹⁹² Gabinius as tribune sponsored the law creating Pompey's pirate command. Badian (1959) argues for a connection of long standing. Cornelius had been Pompey's quaestor, a fact which counted for much at his subsequent trial, at which he was defended by Cicero (Asc. 61C). Cornelius also had connections with C. Manilius, the tribune responsible for Pompey's Mithridatic command.

legislation warrant mention.¹⁹³ The first is Cornelius' law requiring 'that praetors should give judgement in accordance with their standing edicts'.¹⁹⁴ Asconius says that the law was intended to eliminate bias and inconsistency in judgements. It is not clear whether it applied only to the edicts of praetors in Rome or also to those of provincial governors (often simply called 'praetors'), but the latter seems likely.¹⁹⁵ Either way, the law picked up on themes from the *Verrines*: not only as *praetor urbanus* but as governor of Sicily Verres had flagrantly disregarded his own edict, notably in Sthenius' case (Cic. *Verr.* 2.2.90).

A second proposal was overtly concerned with protecting foreigners. Arguing for a ban on loans to ambassadors, Cornelius protested the vast sums involved and the scandalous profits being made, while 'the provinces were being bled dry with interest payments'.¹⁹⁶ He also sought remedy for envoys already struggling with debt (Asc. 58C). Again, there are echoes of 70: Griffin (1973a, 209) points out Cicero's rebuke to those senators who attended meetings only in February, when they could expect to profit from the hearing of foreign embassies (*Verr.* 2.2.76), while Cornelius' speech recalls Pompey's lament as consul-elect about the state of the provinces (*Verr.* 1.45).

Cornelius' proposal was unsuccessful, but it was revived, either the same year or in 58, by his colleague Gabinius.¹⁹⁷ The earlier date seems preferable: as far as we know, Gabinius' measure was identical to Cornelius'; Griffin (1973a, 209) suggests that Gabinius was able to carry Cornelius' measure in the wake of his popular piracy law. Another *lex Gabinia*, setting aside the month of February for the hearing of foreign embassies (Cic. *Q. fr.* 2.12.3 SB 16), likely belongs to the same context. Both laws addressed the same problem, namely that foreign delegations frequently had to resort to bribery even to secure a hearing.¹⁹⁸ In this way, they addressed two key issues of concern to Pompey. They also specifically recall Pompey's *contio* in 71 in treating the welfare of the provinces and corruption in Rome as two facets of the same problem.

Pompey is not known to have supported any of these laws, but it is a reasonable inference that he did, and indeed that he had such legislation in

¹⁹³ For other laws, see *MRR* 2.144.

¹⁹⁴ Asc. 59C: *ut praetores ex edictis suis perpetuis ius dicerent*. Cf. Dio 36.40.1–2.

¹⁹⁵ Cf. Griffin 1973a, 209; Wiseman 1992a, 335; Brennan 2000, 464. Both Cornelius' interest in the provinces and Dio's discussion (36.40.1–41.2) suggest this.

¹⁹⁶ Asc. 58C: *Exhauriri provincias usuris*. Cf. 57C.

¹⁹⁷ Cic. *Att.* 5.21.11 SB 114. The law rendered illegal and unenforceable loans made to foreigners at Rome. Gabinius' later career confirms his interest in protecting provincials. As governor of Syria he defended provincials against *publicani* (see chapter 2, 'Pompey and the *publicani*') and as consul in 58 he was co-author of a law granting privileges to the island of Delos (*RS* no. 22).

¹⁹⁸ Cf. Schol. Bob. 158St; Griffin 1973, 209–10; Bonnefond 1984, 73. Gruen (1974, 252–3) would date the laws to Gabinius' consulship in 58.

mind in 70. The problems of provincial governance could not be solved within a year, and by restoring the tribunes' powers, Pompey provided for ongoing reform. Of course, the revived tribunate also paved the way to Pompey's extraordinary commands. But even the *lex Gabinia* creating Pompey's pirate command might be seen as contributing to the broader reform effort, insofar as it addressed a problem of longstanding concern to the allies and transferred the fight against piracy to a man who would adopt a new and more humane approach.¹⁹⁹ That approach is the subject of chapter 2.

¹⁹⁹ Pompey's success in the pirate war earned him genuine gratitude from the eastern cities. See e.g. *SEG* XLVI 1565; *ILS* 9459; *IG* XII 2.202; Cic. *Flacc.* 14.

Pompey in the east

I argued in chapter 1 that Pompey, as consul in 70, pursued a policy designed to improve the government of Rome's provinces. This chapter examines how he continued that policy in his eastern campaigns of the 60s, even while claiming the title of world conqueror. In his campaigns against the pirates and Mithridates, in the 'authorized' accounts produced by his friends, and in the two-day triumph he celebrated in 61, we see Pompey promoting—and, to a great extent, practising—a model of imperialism that contrasted sharply with contemporaries such as Caesar and Q. Metellus Creticus and was arguably somewhat un-Roman in its avoidance of bloodshed in favour of humane treatment, even of pirates. I will also argue that, although Pompey's conquests brought vast treasure and increased revenues to Rome, his settlement of the east was not designed to maximize the profits of *publicani*, as some scholars have maintained, while Pompey himself observed Roman 'best practice' in the handling of spoils and public money. Finally, I will consider the possibility that Pompey's attitude to empire not only aligns, to a great extent, with Stoic ideals of humane treatment and the 'cosmopolis' of humankind, but may actually have been influenced by Stoic ideas.

PRO LEGE MANILIA

Cicero's well-known *Pro Lege Manilia* is a key text for evaluating both Pompey's reputation and his self-presentation. The speech was calculated to win Pompey's support,¹ so it seems safe to assume that the image of Pompey Cicero presents is one Pompey wished to promote, as near as Cicero could

¹ Cic. *leg. agr.* 2.49; *comm. pet.* 51. Cf. e.g. *Att.* 2.21.4 SB 41; *fam.* 5.7.1–2 SB 3; Plut. *Cic.* 8.7; Johanneman 1935, 13–14; Steel 2001, 226–7; 2013, 162; Vasaly 2013, 148. Cicero could describe himself as an *amicus* of Pompey from at least 65 (*Att.* 1.1.2 SB 10). In chapter 1, I argued that Cicero was already representing Pompey's interests in 70.

reckon it.² Its most striking feature is the privileging of ethical qualities alongside and even above martial *virtus*. As we shall see, this theme also shapes the source tradition on the pirate war and Mithridatic campaign. It reflects, I suggest, the ‘authorized’ accounts of Pompey’s friends and also, to a considerable extent, the reality of Pompey’s imperial praxis. The speech is, therefore, a suitable starting point from which to analyse Pompey’s attitude to empire.

The topic Cicero sets himself is Pompey’s singular and outstanding *virtus* (3), in both its military and moral senses.³ A key point of the speech is that the *summus imperator* must possess not only martial qualities—*labor*, *fortitudo*, *industria*, *celeritas*, *consilium*⁴—but also moral virtue, above all *innocentia*, *temperantia*, *fides*, *mansuetudo*, and *humanitas*.⁵ Pompey excels in all these: *avaritia* is unknown to him (40); his *fides* is prized by both enemies and allies (42); he shows *facilitas* in hearing complaints of wrongs done by others (41); and his *humanitas* and *mansuetudo* towards former enemies are no less renowned than his valour in war (42). These qualities appear more clearly by contrast with the *avaritia* and *cupiditas* of other Roman generals who enrich themselves at the expense of the allies and the treasury.⁶ While others do as much harm as the enemy, says Cicero, Pompey’s restraint of himself and his troops is so great that the allies rejoice at his arrival in their cities⁷—indeed, they regard him as an almost divine figure.⁸

In short, Pompey combines the qualities of the *vir fortis* and the *vir innocens* (27)—the qualities of the ideal general and the ‘good governor’⁹—and it is the latter that receive the greater emphasis. For instance, Cicero makes passing mention of African blood and the destruction of the Gauls (30), but lingers over Pompey’s clemency and his influence with enemies (42, 46). Early on, before Cicero comes to discuss the choice of commander, he highlights Pompey’s *temperantia*, *mansuetudo*, and *humanitas* (13), and it is

² Cf. Welch 2008, 190–1; Tröster 2009, 25. It seems possible that the speech was written to a brief from Pompey and friends; at any rate, C. Manilius must have known in advance that Cicero would speak in favour of the bill.

³ i.e. *militaris virtus* and what Cicero calls *virtus animi* (*leg. Man.* 64). Cicero also nominates *scientia rei militaris*, *auctoritas*, and *felicitas* as key attributes of the ideal general (28). On the structure of the speech, see Gruber 1988, 244–5.

⁴ *Cic. leg. Man.* 29. Pompey’s claim to each of these is detailed at 29–35.

⁵ *Cic. leg. Man.* 36, elaborated at 66; cf. 13, 42 for Pompey’s *mansuetudo* and 38, 41, 67 for his *continentia*.

⁶ *Cic. leg. Man.* 37–41. This is another key theme of the speech; cf. 13, 64–8.

⁷ *Cic. leg. Man.* 13, 38–9, 68.

⁸ *Cic. leg. Man.* 40: *de caelo delapsus* (‘a man fallen from the heavens’). Note also Pompey’s *divina virtus* (33, 36); cf. 10, 42, 45 and Cole 2013, 41–2 for Pompey’s association with the divine.

⁹ Cf. Gruber 1988, 244–5. The good governor is essayed in *Cic. Q. fr.* 1.1 SB 1. What is lacking in *leg. Man.* is any explicit reference to justice, though justice is implicit in Pompey’s *innocentia*, *fides*, and *severitas* in decision-making (38), and by contrast with the *iniuriae* of others (65). Possibly Cicero considered Pompey too lenient, even towards pirates, to be credited with strict *iustitia*.

Pompey's moral excellence with which he concludes the speech (66–8). These qualities are partly responsible for Pompey's military *virtus*: his *celeritas*, says Cicero, is due not to any special skill or strength but to his *temperantia*, since (unlike other generals) he does not delay for the purposes of plunder or pleasure (40).

Interestingly, Cicero includes the example of the Cretans who, during the pirate war, preferred to surrender to Pompey rather than to the Roman general active on the island, Q. Caecilius Metellus (later Creticus).¹⁰ Cicero cites the episode as evidence of Pompey's *auctoritas*, but in doing so he hints at the contrast between Pompey's approach to the pirate war and Metellus'. The episode was controversial: some accused Pompey of protecting 'unholy and godless' pirates out of jealousy of Metellus,¹¹ while Pompey claimed to be defending men who had announced their intention to surrender against Metellus' treacherous attack (App. Sic. fr. 6). The incident, then, represented not only a clash of *imperia* but also of ideologies.¹² In fact Cicero was among those uneasy with Pompey's decision to spare the pirates. His comments elsewhere come close to the line taken by Pompey's critics.¹³ In *Pro Lege Manilia*, however, there is no hint that Cicero disapproved of Pompey's course—and the Cretans are *Cretenses* (46), not 'pirates'. This is further evidence that the speech was composed in line with Pompey's wishes and self-presentation; indeed, it might be considered part of Pompey's justification of his intervention in Crete.¹⁴

As scholars have recognized, Cicero's portrait of Pompey in *Pro Lege Manilia* incorporates virtues not normally associated with generalship but familiar from Hellenistic thinking on the ideal ruler—virtues like *temperantia* and *humanitas*.¹⁵ Gruber (1988, 254–8) suggests that Cicero was drawing particularly on Xenophon's *Cyropaedia*. This is plausible: the *Cyropaedia* seems also to have influenced Cicero's portrait of the good governor in his first letter to Quintus.¹⁶ Another possible model is the character of Scipio Aemilianus. Scipio not only offered an *exemplum* of the victorious general but was accredited with a range of ethical virtues closely overlapping those

¹⁰ Cic. leg. Man. 46. Cicero does not name Metellus.

¹¹ Plut. Pomp. 29.3 (ἀνθρώποις ἀνοσίοις καὶ ἀθέοις); cf. 29.5. Plutarch states that even Pompey's friends were not pleased by his treatment of Metellus (29.1). Cf. Tröster 2009, 27.

¹² Cf. Stone (forthcoming) and 'The pirate war', below. On Pompey's *imperium* (evidently *aequum*), see e.g. Drogula 2015, 321–3, with further references.

¹³ Cic. off. 3.49: *Melius hi quam nos, qui piratas immunes, socios vectigales habemus*. ('[The Athenians] were better than us, who leave pirates free while allies pay tribute.') At 3.107 he maintains that pirates are not owed even the duty of *fides* accorded to other enemies; cf. Verr. 2.5.64–77, where Cicero advocates the harshest punishment for pirates. By contrast, Pompey seems to have appealed precisely to *fides* in justifying his actions (see 'The pirate war', below).

¹⁴ Cf. Liv. per. 99; App. Sic. fr. 6.2.

¹⁵ e.g. Gruber 1988, 247–53; Steel 2001, 132–3.

¹⁶ Cf. Cic. Q. fr. 1.1.23 SB 1; Braund 1996a, 25–6; Rosillo López 2005, 197.

emphasized in *Pro Lege Manilia*, especially σωφροσύνη/*temperantia*.¹⁷ *Temperantia* was probably a relative novelty in 66, so its prominence in *Pro Lege Manilia* in itself tends to recall Scipio¹⁸—perhaps another reflection of Pompey’s preferences.¹⁹ It may be, then, that Cicero (or Pompey) accessed Hellenistic ideas via Scipio’s public image.²⁰ Either way, as Gruber argues, Cicero’s portrait of Pompey in *Pro Lege Manilia* seems to represent the moment when Hellenistic thinking on the ideal ruler hit the mainstream in Rome.²¹

More striking than Pompey’s virtues in themselves is their effect on foreign peoples.²² Cicero emphasizes that the pirates surrendered to Pompey’s authority and to his alone (*leg. Man.* 35), and represents Pompey as the allies’ choice to conduct the Mithridatic war, by reason of his *continentia* (12–13, 67–8). More generally, Pompey’s moral excellence inspires good will towards Roman rule:

nunc imperi vestri splendor illis gentibus lucem adferre coepit; nunc intellegunt non sine causa maiores suos tum cum ea temperantia magistratus habebamus servire populo Romano quam imperare aliis maluisse. (Cic. *leg. Man.* 41)²³

Now the brightness of your empire begins to bring light to these peoples; now they understand that their ancestors preferred with good cause, at a time when we had magistrates of such moderation, to serve the Roman people rather than rule others.

¹⁷ See e.g. Polyb. 31.25–9; Cic. *Verr.* 2.4.81. By contrast, Scipio shows a marked lack of φιλανθρωπία in Appian’s account of the fall of Numantia (*Ib.* 95–8); see Strasburger 1965, 41, 49; Tweedie 2015.

¹⁸ *Temperantia* occurs only three times in the *Verrines*, each time referring to Scipio (Cic. *Verr.* 2.4.81, 83, 98); by comparison, *innocentia/innocens* occurs around fifty times, applied to many different individuals. Gruber (1988, 250–1) notes the novelty of *temperantia* but overlooks its strong association with Scipio.

¹⁹ There is reason to think that Pompey fostered comparison between himself and Scipio. In 56, in response to an attack from C. Cato, Pompey declared that he would take more care for his life than Scipio had done (Cic. *Q. fr.* 2.3.3 SB 7), and, in offering to play Laelius to Pompey’s Scipio (*fam.* 5.7.3 SB 3), Cicero likely took his cue from Pompey’s known preferences, as he did in likening Pompey to Alexander the Great (Cic. *Arch.* 24 with Welch and Mitchell 2013, 86). Cf. McDonnell 2006, 295–6; van der Blom 2010, 185.

²⁰ Scipio himself was a devotee of the *Cyropaedia*, as Cicero attests (*Q. fr.* 1.1.23 SB 1).

²¹ Its impact can perhaps be traced in Caesar’s Gallic war commentaries. As Levick (1998, 71) and Welch (1998, 85–6) argue, Caesar too had to be seen to possess the qualities of the *summus imperator* (Cic. *leg. Man.* 28). The ‘*virtutes animi*’ (64) are harder to spot, but Caesar does claim *innocentia* (BG 1.40.13) and *mansuetudo* (2.14.5, 2.31.4).

²² Here, too, there is a parallel with Scipio: Dio (21.70.7) states that Scipio was able to win over many cities by his virtue and good faith, Diodorus (33.28b.4) writes that Scipio’s embassy to the east earned not only praise but universal good will towards Roman hegemony, and both Diodorus (32.fr7) and Appian (*Pun.* 101) describe enemies refusing to surrender to anyone but Scipio.

²³ As Welch notes (2005, esp. 320), it was not only pirates but Roman misgovernment that had caused the light to be dimmed.

The idea that moral excellence brings good will towards Roman rule is not just a literary conceit or a nod to Pompey's predilections but an underpinning principle of Cicero's argument (and, as we shall see, the reform effort of the 50s).²⁴ The potential consequences of immoral government had been demonstrated vividly in the 80s when Mithridates VI overran Asia and orchestrated a massacre of Romans and Italians.²⁵ Those memories are never far from the surface in *Pro Lege Manilia*, and Cicero hints at the possibility of a repeat performance when he refers to the 'opportunity' (*occasio*) Mithridates and Tigranes suppose is open to them for occupying Asia (4), and to the 'lesson' of the first war.²⁶ 'It is difficult to say', says Cicero, 'how much we are hated among foreign peoples on account of the passions and injustices of those who in recent years we have sent to them with *imperium*.'²⁷ The implication is that misgovernment and disaffection is as much a threat to Rome's empire as Mithridates' army; Pompey's task, therefore, was not only to defeat the kings but to secure the allegiance of Rome's provinces.²⁸ To that end, ethical qualities were of vital importance.²⁹

THE PIRATE WAR

The same emphasis on moral excellence rather than military achievement characterizes the sources on the pirate campaign. Plutarch highlights Pompey's clemency towards the pirates:

ἐπεὶ δὲ τῶν συνεστώτων ἔτι καὶ πλανωμένων ἔξω πειρατηρίων ἐνίοις δεηθεῖσιν ἐπιεικῶς ἐχρήσατο καὶ παραλαβὼν τὰ πλοῖα καὶ τὰ σώματα κακὸν οὐδὲν ἐποίησεν,

²⁴ See chapters 6–8.

²⁵ See e.g. Just. *ep. Trog.* 38.7.8: *tantumque se avida expectat Asia, ut etiam vocibus vocet: adeo illis odium Romanorum incussit rapacitas proconsulum, sectio publicanorum, calumniae litium.* ('So eagerly was Asia awaiting [Mithridates] that they were even summoning him with their voices: so much had the rapacity of the proconsuls, the tax farmers' confiscations, and the chicanery of litigation inspired them with hatred of the Romans.') The passage, from 'Mithridates' speech, reflects Roman self-criticism, if not Pontic propaganda. Cf. Cic. *Flacc.* 60–1; Diod. 37.26; App. *Mith.* 16, 23.

²⁶ Cic. *leg. Man.* 19: *Deinde quod nos eadem Asia atque idem iste Mithridates initio belli Asiatici docuit, id quidem certe calamitate docti memoria retinere debemus.* ('Next, what this same Asia and this same Mithridates taught us at the beginning of the Asiatic war, we certainly should retain in our memory, having been educated by disaster.') Cicero is referring to the subsequent collapse of credit at Rome, but the phrase might easily recall the massacre of 88, already discussed at §§7 and 11. Cf. Röhre 1978, 65.

²⁷ Cic. *leg. Man.* 65: *Difficile est dictu, Quirites, quanto in odio simus apud exterarum nationes propter eorum quos ad eas per hos annos cum imperio misimus libidines et iniurias.*

²⁸ As Lucullus had successfully done in Asia (see e.g. Plut. *Luc.* 20.5, 23.1), though here as in other respects Cicero suppresses Lucullus' achievement.

²⁹ Cf. Röhre 1978, 66, emphasizing *humanitas* in particular.

ἐπ' ἐλπίδος χρηστῆς οἱ λοιποὶ γενόμενοι τοὺς μὲν ἄλλους διέφευγον ἡγεμόνας, Πομπηίῳ δὲ φέροντες ἑαυτοὺς μετὰ τέκνων καὶ γυναικῶν ἐνεχείριζον.
(Plut. *Pomp.* 27.4)

Some of the pirate bands that were still wandering about begged for mercy. When he treated them fairly, and, after seizing their ships and their persons, did them no harm, the remainder became hopeful of kindness, escaped from the other commanders, took themselves to Pompey, along with their children and wives, and entrusted themselves to him.

These too Pompey spared, says Plutarch, as well as the 20,000 who surrendered to him in Cilicia (*Pomp.* 28.2).³⁰ Dio (36.37.4–5), likewise, reports that many were moved to surrender by Pompey's *φιλανθρωπία*, while those he defeated were quickly won over by his *χρηστότης* (kindness or clemency). The result was an almost bloodless campaign.³¹ Indeed, Appian (*Mith.* 95) says that Pompey cleared the seas 'without a fight' (*ἀμαχεῖ*), though his statistics indicate that some hostilities did take place (96).³²

Some of the little fighting of the pirate war was done by Pompey's officer L. Octavius on behalf of the Cretans (Dio 36.18–19). Even there, Pompey's intention was to *avoid* fighting. Octavius had been sent without troops to receive the submission of the Cretan cities (36.18.1), which had declared their intention to surrender to Pompey rather than succumb to Metellus' harshness.³³ Only after Metellus refused to cooperate, captured Lappa, and executed the Cilicians there did Octavius resort to arms, apparently of his own initiative (Dio 36.19.1). However, Metellus proceeded to conquer the island by force and accused Pompey of siding with pirates in order to rob him of his triumph (Plut. *Pomp.* 29). Pompey seems to have appealed to *fides*. Appian says that Pompey ordered Metellus to withdraw from the island 'because it was not proper to continue to fight against those who were giving themselves up'.³⁴ According to the *Periochae*, Pompey claimed he was obliged to act as he did.³⁵ Dio suggests that Pompey regarded the Cretans' surrender as effective and that Metellus was violating a truce by continuing to fight.³⁶ Probably Pompey was reluctant to share his victory over the pirates, but that does not exclude ethical motivations for intervening in Crete.³⁷ In any case, the manner

³⁰ According to Plut. *Pomp.* 27.4, the only pirates Pompey punished were those who remained in hiding, conscious of their incurable faults (*ἀνήκεστα*). Cic. *leg. Man.* 35 states that some of the pirates were killed.

³¹ Cf. de Souza 1999, 167–72.

³² App. *Mith.* 96 claims 71 ships captured, 306 ships and 120 pirate bases surrendered, and about 10,000 killed in battles, but little faith can be placed in such figures.

³³ Flor. *ep.* 1.42.5. Cf. Dio 36.18.1–2; Plut. *Pomp.* 29.1–2.

³⁴ App. *Sic.* fr. 6.2: *ὥς οὐ δέον ἔτι πολεμεῖν τοῖς ἑαυτοὺς ἐπιτρέπουσιν.*

³⁵ Liv. *per.* 99: *Pompeius rationem reddit hoc se facere debuisse.*

³⁶ Dio 36.18.1; cf. 36.19.1, 3.

³⁷ Pompey seems not to have intervened until relatively late in the pirate campaign, though Metellus had been active in Crete since 68 (Dio 36.45.1; Plut. *Pomp.* 29.1), and even Plutarch's

in which he justified his actions is significant for our understanding of Pompey's self-presentation.

The settlement of the pirates

The sequel to Pompey's bloodless victory was a still more remarkable display of compassion. According to a source tradition widely thought to derive from Posidonius,³⁸ Pompey realized that the pirates were not savage by nature, but had fallen into piracy as a result of poverty. He therefore determined to reform them by settling them on land, where they would have an alternative livelihood and the civilizing benefits of *polis*-dwelling and agriculture.³⁹ Pompey settled large numbers of pirates at Soli-Pompeiopolis, Dyme, and other areas where there was a shortage of men.⁴⁰ In this way, he not only removed the pirates from the seas, but sought a lasting solution to the problem of piracy by addressing its causes. At the same time, he was able to reinvigorate areas depopulated by the Mithridatic war.⁴¹

Pompey's actions are much praised in ancient and modern accounts.⁴² An exception is de Souza (1999, 171–7), who dismisses Pompey's clemency as entirely self-interested: what Pompey really wanted, he asserts, was not a

critical account states that it was the Cretans who approached Pompey in the first instance (*Pomp.* 29.2). Moreover, there is no evidence that Pompey paraded the Cretan leaders he prevented from appearing in Metellus' triumph (Dio 36.19.3), as some scholars have assumed (Beard 2007, 13; Brennan 2000, 2.408): neither Dio nor Velleius (2.40.5) says so, and they do not appear in Appian's list of captives at *Mith.* 116–17.

³⁸ See 'Pompey and philosophy', below.

³⁹ App. *Mith.* 96: τοὺς δὲ πειρατὰς οἱ μάλιστα ἐδόκουν οὐχ ὑπὸ μοχθηρίας ἀλλ' ἀπορία βίου διὰ τὸν πόλεμον ἐπὶ ταῦτα ἐλθεῖν, ἐς Μαλλὸν καὶ Ἀδανὰ καὶ Ἐπιφάνειαν, ἢ εἴ τι ἄλλο πόλισμα ἔρημον ἢ ὀλιγάνθρωπον ἦν τῇσδε τῆς τραχείας Κιλικίας, συνώκιζε· τοὺς δὲ τινας αὐτῶν καὶ ἐς Δύμην τῆς Ἀχαιᾶς ἐξέπεμπε. ('Those pirates who, he earnestly believed, had arrived at this way of life not through wickedness but through poverty on account of the war he settled in Mallus, Adana, and Epiphaneia, or in any deserted or underpopulated town in rugged Cilicia. Some of these he also sent to Dyme in Achaea.') Plut. *Pomp.* 28.3: ἐννοήσας οὖν ὅτι φύσει μὲν ἄνθρωπος οὔτε γέγονεν οὔτ' ἔστιν ἀνήμερον ζῶων οὐδ' ἄμεικτον, ἀλλ' ἐξίσταται τῇ κακίᾳ παρὰ φύσιν χρώμενος, ἔθει δὲ καὶ τόπων καὶ βίων μεταβολαῖς ἐξημεροῦται, (<καὶ γὰρ> καὶ θηρία δὲ διαίτης κοινωνοῦντα πραοτέρας ἐδύεται τὸ ἄγριον καὶ χαλεπὸν), ἔγνω τοὺς ἄνδρας εἰς γῆν μεταφέρειν ἐκ τῆς θαλάσσης καὶ βίου γεῦειν ἐπιεικοῦς, συνεθισθέντας ἐν πόλεσιν οἰκεῖν καὶ γεωργεῖν. ('Having considered, therefore, that by nature man neither becomes nor is a savage or unsociable being, but is transformed by the unnatural practice of vice, and tamed by habit and by a change of place and livelihood, as even animals that partake of a gentler way of life put off their savage and dangerous ways, he determined to transfer the men from the sea to the land and to give them a taste of a proper life, once they were accustomed to living in cities and being farmers.') Cf. Dio 36.37.5; Vell. 2.32.6; Flor. *ep.* 1.41.14.

⁴⁰ See e.g. Strab. 8.7.5, 14.3.3, 14.5.8; Cic. *Att.* 16.1.3 SB 409; Plut. *Pomp.* 28.4; App. *Mith.* 96; Dio 36.37.6.

⁴¹ Strab. 14.5.8 emphasizes this aspect.

⁴² e.g. Vell. 2.32.6; Flor. *ep.* 1.41.14; Strasburger 1965, 50–1; Seager 2002, 47–8; Pohl 1993, 279. Pina Polo (2009, 282), by contrast, argues that the 'deportation' of the pirates was conceived

solution to the problem of piracy but a speedy victory, by way of a stepping-stone to the Mithridatic command. It was essential to secure Rome's food supply; that accomplished, Pompey went 'soft' on his opponents, so as to complete his three-year mission in just three months (176). But his success was illusory, de Souza maintains: continuing anti-piracy measures show that the problem had not been eradicated (179–81)—unsurprisingly, perhaps, as the main cities where Pompey resettled the pirates were either on the coast or not far from it (176). In de Souza's view, Pompey should have acted more like Metellus, 'beating his opponents into submission' rather than pardoning them (177).

De Souza misrepresents Pompey's policy, however. The aim of resettling the pirates was not to remove them physically from the 'temptation' of the sea but rather to provide them with an alternative livelihood.⁴³ De Souza also overlooks important elements of Pompey's strategy. While he spared the pirates themselves, Pompey crippled their harbours, workshops, and bases, as well as seizing or destroying hundreds of ships.⁴⁴ He also proceeded, over the following years, to strengthen Roman control over coastal regions—precisely the means by which de Souza (1999, 178) thinks piracy had to be combatted.⁴⁵ Moreover, ongoing anti-piracy measures should be seen as part of Pompey's solution, not as proof of his failure. For rhetorical purposes, the pirate war was won when the sea lanes and the food supply were secured in 67,⁴⁶ but both Pompey and the senate recognized that piracy could not be absolutely eradicated; it had to be controlled. To that end, Pompey ordered the Asian cities to provide ships (Cic. *Flacc.* 29), and in 62 he personally proposed a fleet for the protection of Italy (30). Clearly he did not consider these measures any diminution of his earlier achievement.

of as 'a deterrent and a punishment', though the former pirates did integrate successfully in their new territory.

⁴³ Only Velleius (2.32.4–5) and Florus (1.41.12) claim that Pompey moved the pirates away from the sea (on the possible origins of this tradition, see Breglia 1972, 360; Tröster 2009, 28). The other sources simply say that he settled them on land where there was a shortage of men. In fact Velleius (2.32.6) grasps the point: *data enim facultate sine rapto vivendi, rapinis arcuit* ('by giving them the means to live without robbery, he kept them from robbery'). Modern scholars, however, have propagated the idea that Pompey 'removed temptation' from the pirates: Seager 2002, 48; cf. e.g. Leach 1978, 73.

⁴⁴ Cic. *Flacc.* 29; Strab. 14.3.3; App. *Mith.* 96. At his triumph Pompey claimed to have captured 800 ships with brazen beaks (App. *Mith.* 117; Plut. *Pomp.* 45.2) and, according to Appian (*Mith.* 116), he brought 700 complete ships to Rome. Most of these, presumably, were pirate craft. An inscription recorded by Pliny (*NH* 7.97) gives a total of 846 sunk or captured.

⁴⁵ Besides Pompey's arrangements in Cilicia, the suppression of piracy was probably also a factor in the annexation of Syria (see under 'Pompey and philosophy', below) and, later, of Cyprus. Initially Pompey was content to rely on Cyprus' king (see Cic. *Flacc.* 30), but he seems to have reconsidered his position (see chapter 3, n. 111).

⁴⁶ See e.g. Cic. *leg. Man.* 33, 35; *lex Gabinia Calpurnia de insula Delo* (RS no. 22) ll. 14–21. Cf. Vell. 2.32.4; Flor. *ep.* 1.41.15.

On the contrary, Pompey seems to have had considerable success. The sources make scant reference to piracy after 67,⁴⁷ but one telling passage is Cicero's comment to Atticus in 44: 'It is not surprising that the Dymaeans, having been expelled from the land, are making the sea unsafe.'⁴⁸ After more than twenty years, Pompey's pirate settlers had been evicted in favour of a Roman colony (Strab. 14.3.3). De Souza comments (1999, 185), 'The resettled Cilicians would appear to have reverted to their old practices, if, indeed, they had ever abandoned them.' But the Dymaeans' return to piracy, once Pompey's arrangements were undone, is compelling evidence of how effective they had been.⁴⁹ It seems, then, that Pompey's settlement policy served both strategic and humanitarian ends—as well as Pompey's own interests—simultaneously.⁵⁰

THE MITHRIDATIC WAR

Similar themes appear in the sources on the Mithridatic campaign. More so than the pirate war, this was a 'traditional' war, with pitched battles and aggressive manoeuvres. Yet, as Sherwin-White observes, Pompey's fêted conquest of the east involved 'a great deal more marching than fighting' (1984, 198). Many of Pompey's 'victories' were achieved diplomatically, and, even when he did fight, there was surprisingly little loss of life.⁵¹ At the same time, the sources emphasize Pompey's moral virtues in ways that echo *Pro Lege Manilia*. While the principal sources for the Mithridatic campaign (Plutarch, Appian, and Dio) were written long after the event, we may be confident that they reflect, directly or indirectly, the contemporary accounts produced by Pompey's friends.⁵² Most significant of these was the eyewitness account by Theophanes of Mytilene, apparently an 'official' history,⁵³ which portrayed

⁴⁷ As de Souza concedes (1999, 179), though he insists that it would be wrong to infer a lack of pirates. Cf. Pohl 1993, 279–80.

⁴⁸ Cic. Att. 16.1.3 SB 409: *Dymaeos agro pulsos mare infestum habere nil mirum*.

⁴⁹ Cf. Luc. BC 2.635–6, where Lucan has Pompey recall his Cilician settlers to the sea, and Verg. georg. 4.125–46, where the old farmer may be one of Pompey's reformed pirates (Serv. ad georg. 4.126). Flor. ep. 1.41.14 claims that no allies were ever more loyal to Rome than the resettled pirates.

⁵⁰ Cf. Tröster 2009, 26–7. Martina (1982) and Ziegler (1993, 211) argue that Pompey was partly interested in creating new clients.

⁵¹ In fact reports of Pompey's earlier campaigns are not particularly bloody either, despite his reputation as *adulescentulus carnifex* (Val. Max. 6.2.8). Nonetheless, figures for the Mithridatic war are strikingly low; compare Plut. Pomp. 12.3 (17,000 of 20,000 reportedly killed in Africa) and 21.2 (5,000 fugitives from the Spartacus war put to death).

⁵² The vast topic of the sources for the Mithridatic war cannot be discussed in detail here; for an overview, see McGing 1986, app. 2.

⁵³ Cicero (Arch. 24) suggests this when he calls Theophanes 'the historian of [Pompey's] achievements' (*scriptorem rerum suarum*). Theophanes' work seems to have appeared by 62, the

Pompey as a Roman Alexander.⁵⁴ Both Plutarch and Strabo cite Theophanes,⁵⁵ he was probably also a source for Livy, and for Dio and others via Livy.⁵⁶ Appian, too, drew on a tradition friendly to Pompey.⁵⁷ Despite many divergences on particular points, such as the Albanian episode discussed below, the later Greek narratives are united in their emphasis on Pompey's moral character and the relative lack of bloodshed. This is the more striking as ancient sources tend to exaggerate casualty figures rather than minimize them.⁵⁸ These features of the later sources should therefore be seen, as in *Pro Lege Manilia*, as evidence for Pompey's self-presentation and, so far as we can tell, his imperial praxis.

In fact casualties are reported for only four episodes in the entire war. Pompey's campaign in 66, culminating in Mithridates' defeat in a night battle, was a major military engagement. Plutarch (*Pomp.* 32.7) and Appian (*Mith.* 100) report around 10,000 of Mithridates' men killed⁵⁹—yet 10,000 (reported) enemy casualties was not a particularly high toll in Roman terms. According to Appian (*BC* 2.44), those saluted as *imperator* had killed 10,000 or more; 5,000 was the minimum for a triumph (*Val. Max.* 2.8.1). By way of comparison, Lucullus' forces were said to have killed more than 100,000 of Tigranes' men at Tigranocerta in 69 (*Plut. Luc.* 28.6). Pompey's victory must have seemed relatively tame. Additionally, the sources stress that Pompey fought of necessity (*Dio* 36.46.1) and only after Mithridates had refused to come to terms (*Dio* 36.45; *App. Mith.* 98), while, in Plutarch, Mithridates' defeat and flight is followed by the contrasting example of Tigranes of Armenia, who learned that Pompey was 'rather gentle and mild' (*ἡμερον δέ τινα τῷ τρόπῳ καὶ πράον*) and therefore decided to surrender rather than fight (*Plut. Pomp.* 33.2). True to his reputation, Pompey treated Tigranes with respect and allowed him to retain part of his kingdom as friend and ally of Rome.⁶⁰

Pompey's encounters with the Albanians were prompted by a treacherous attack during the Saturnalia.⁶¹ The sources report many casualties, though no

date of the *Pro Archia* (Gold 1985, 321). Cf. below in this section. Other friends of Pompey are known to have written histories covering this period, including L. Lucceius (see *Cic. fam.* 5.12 SB 22; Cornell 2013, 1.336); cf. Cornell 2013, 1.419 on Varro.

⁵⁴ See n. 67, below.

⁵⁵ *Plut. Pomp.* 37.2–3; *Strab.* 11.2.2, 11.5.1, 11.14.4 and 11, 12.3.28. Cf. Heftner 1995, 53–9.

⁵⁶ See e.g. McGing 1986, 178–9; Stadter 1999, 220. Rizzo (1963) would make Theophanes the ultimate source for all extant narratives on Pompey's Syrian campaigns.

⁵⁷ Appian's sources have been the subject of much speculation; Nicolaus of Damascus and Posidonius' work on Pompey are possibilities (see e.g. McGing 1986, 176–7; Engels 1999, 87–8, with further references). Nicolaus may have used Theophanes.

⁵⁸ See e.g. Brunt 1971, 694–7; Pittenger 2008, 104–5.

⁵⁹ *Dio* (36.47.4, 49.6) says only that a large number were killed. Late sources give higher figures, but these can be regarded as exaggeration: Eutropius (6.12.2), for instance, claims that 40,000 of Mithridates' men were killed, while Pompey lost only twenty-two. Cf. Brunt 1971, 694–7.

⁶⁰ *Cic. Sest.* 58; *Dio* 36.52.4; *Plut. Pomp.* 33.4–5.

⁶¹ The Albanians probably did initiate the conflict (see Sherwin-White 1984, 199). Cf. Yarrow 2006, 181 on the divergent source traditions regarding Pompey and the Albanians.

actual figures,⁶² and Plutarch (*Pomp.* 35.3) describes how Pompey killed the brother of the Albanian king in close combat. In the case of the Iberians, Pompey does seem to have been the aggressor, despite Dio's statement that he was 'compelled' to fight, 'contrary to his inclinations'.⁶³ According to Plutarch, Pompey attacked because the Iberians had sided with Mithridates. He reports that 9,000 Iberians were killed and 10,000 captured.⁶⁴ Florus, however, gives quite a different picture—'[Pompey] cut down the Colchians, pardoned the Iberians, and spared the Albanians'⁶⁵—while Appian describes Pompey's activities in the region as exploratory rather than aggressive:

τοὺς Κόλχους ἐπῆει καθ' ἱστορίαν τῆς Ἀργοναυτῶν καὶ Διοσκούρων καὶ Ἡρακλέους ἐπιδημίας, τὸ πάθος μάλιστα ἰδεῖν ἐθέλων, ὃ Προμηθεὶ φασὶ γενέσθαι περὶ τὸ Καύκασον ὄρος... τὸν οὖν Πομπήιον ἐπὶ τῇ ἱστορίᾳ ἀνιόντα οἱ μὲν ἄλλοι παρέπεμπον, ὅσα ἔθνη γείτονα· (App. *Mith.* 103)

He visited Colchis in accord with the story of the visit of the Argonauts and the Dioscuri and Hercules, and most passionately wanted to see where they say Prometheus had been near Mount Caucasus... In fact all the neighbouring peoples accompanied Pompey when he went on his investigation.

Appian does report a joint ambush by the Albanians and Iberians, which Pompey scattered, but, although he took hostages, no casualties are recorded (*Mith.* 103). It seems, therefore, that there were at least two source traditions on these events, both favourable to Pompey but different in emphasis. Neither is bloody, by Roman standards, but the version in Appian hardly seems to be a war at all, and there is perhaps a note of surprise in Appian's comment that Pompey was awarded a triumph for these exploits.⁶⁶ It is likely the more conventional version derives from Theophanes;⁶⁷ the 'exploratory' version might perhaps derive from Varro or from Posidonius, if his treatment of Pompey extended so far.⁶⁸

⁶² e.g. *Pomp.* 34.2; Dio 36.54.5, 37.4.4; Front. *strat.* 2.3.14. By contrast, Flor. *ep.* 1.40.28 says that Pompey 'spared' (*pepercit*) the Albanians.

⁶³ Dio 37.1.1: *παρὰ γνώμην ἡναγκάσθη συνεχεῖς θῆναι*. See Sherwin-White 1984, 189–9.

⁶⁴ Plut. *Pomp.* 34.4–5; cf. Dio 27.2.4–5.

⁶⁵ Flor. *ep.* 1.40.28: *Colchos cecidit, ignovit Hiberiae, pepercit Albanis*.

⁶⁶ App. *Mith.* 103, probably referring particularly to the rout of the Albanians and Iberians; both peoples appeared in Pompey's triumph: Plin. *NH* 7.98; Plut. *Pomp.* 45; App. *Mith.* 117. As Braund (1994, 12–13, 162–8) points out, however, following in the footsteps of the Argonauts and expanding the horizons of the known world were meaningful achievements in themselves, especially for a would-be Roman Alexander.

⁶⁷ e.g. Plut. *Pomp.* 35.3–4 on the Amazons is close to Strab. 11.5.1, who cites Theophanes by name (cf. Heftner 1995, 54–5). Other details, such as Pompey's combat with the brother of the Albanian king (Plut. *Pomp.* 35.23), would well fit Theophanes' portrait of Pompey as a Roman Alexander. On Theophanes' history, see e.g. Cic. *Arch.* 24; Welch and Mitchell 2013, 86–9; Rawson 1985, 108. Cf. Baynham 2001, 122, with sources for the Alexander legend.

⁶⁸ Varro wrote up scientific and geographic observations on the region (Plin. *NH* 6.51–2). Strab. 11.1.6 might imply that Posidonius treated Pompey's expedition in Albania and Iberia; he was certainly still active in 60 (see Cic. *Att.* 2.1.2 SB 21).

Finally, Pompey was received in Jerusalem without a fight (Joseph. *AJ* 14.58–9; *BJ* 1.142–3), but captured the Temple only after a protracted siege and bloody fighting. Josephus reports that 12,000 Jews were killed in the fall of the Temple, some while performing their religious rituals, though he adds that the greater number were killed by Jews of the opposing faction or by throwing themselves off precipices (*AJ* 14.69–71; *BJ* 1.149–51). However, Pompey besieged the Temple only after Aristobulus' party refused to come to terms (*AJ* 14.60; *BJ* 1.144), and the whole episode was largely the product of internal strife, so should not be regarded as typical of Pompey's policy.⁶⁹

This limited evidence of 'traditional' warfare contrasts with the many occasions when Pompey is said to have achieved his objectives without resort to arms. Appian (*Mith.* 106), for instance, lists a large number of places which Pompey brought under Roman rule 'without fighting' (ἀμαχεί), including all of Syria and parts of Cilicia, and Dio's narrative offers many examples of peaceful subjection.⁷⁰ Pompey seems to have consistently preferred diplomacy over actual warfare. Dio stresses that he attempted to make terms with Mithridates, though he subsequently determined that he would have to fight.⁷¹ The attempt should not be dismissed as mere show, especially as Pompey did settle with Tigranes of Armenia, the other king named in the *lex Manilia*,⁷² and later allowed Mithridates' son to retain Bosphorus as his kingdom with the title of friend and ally.⁷³ It is also worth noting Pompey's use of blockade tactics, which can be seen as an attempt not to protract the war but to minimize bloodshed.⁷⁴ Meanwhile, Pompey repeatedly showed himself amenable to truce and treaty, even with the reportedly treacherous Albanians,⁷⁵ and declined opportunities for military intervention in Egypt and Parthia, though many encouraged him.⁷⁶ Indeed, many of the battles he did fight were

⁶⁹ See e.g. Joseph. *BJ* 1.120–40 on the dispute between Hyrcanus and Aristobulus. Ultimately it is they, and not Pompey, whom Josephus blames for the loss of Jewish freedom (*AJ* 14.77).

⁷⁰ e.g. Dio 36.48.1–2, 37.3.2, 37.7.5, 37.14.3, 37.20.1.

⁷¹ Dio 36.45.2–46.1; cf. App. *Mith.* 98.

⁷² So Sherwin-White 1984, 190–1, *contra* e.g. Seager 2002, 53; McGing 1986, 163. See e.g. Cic. *leg. Man. passim* and Plut. *Pomp.* 30.1 for the terms of the *lex Manilia*, and Dio 36.51–2; App. *Mith.* 104–5; Plut. *Pomp.* 33 for the settlement with Tigranes.

⁷³ App. *Mith.* 113; Dio 37.13.2.

⁷⁴ App. *Mith.* 99; Dio 36.47.1, 37.3.3; Plut. *Pomp.* 39.1. Naval blockade would be a hallmark of Pompey's 'ethical' strategy in the civil war (Welch 2012, ch. 2). Presumably Pompey hoped that Mithridates would agree terms, or perhaps that he would be defeated by internal forces, as in fact happened (see below in the text). The strategy was unpopular, which might explain why the sources portray Pompey's Caucasian campaigns as accidental or collapse the time frame (see Braund 1994, 161–2). There were also strategic and ideological grounds for the diversion, however (see e.g. Sherwin-White 1984, 195–9; Braund 1994, 161–70).

⁷⁵ Dio 36.54.5, 37.2.6–7, 37.5.1; Flor. *ep.* 1.40.28. An exception was his recalcitrant, sometimes provocative, behaviour towards Parthia (Dio 37.5.2–4, 37.6.2).

⁷⁶ Dio 37.7.2; App. *Mith.* 114. Cf. chapter 6, 'Pompey and Parthia'.

probably little more than muscle-flexing designed to procure a treaty; often the mere display of force was sufficient for Pompey to achieve his ends.⁷⁷

Pompey also exploited regional politics by playing off kings and princes against each other. Tigranes' surrender was secured in this way: according to Dio, Pompey put pressure on Tigranes by persuading Phraates of Parthia to invade Armenia, then entered Armenia at the invitation of Tigranes' son, prompting the king to surrender—though, as we have seen, Pompey's reputation for mildness played a role as well.⁷⁸ Later, Pompey captured Jerusalem with Hyrcanus' assistance,⁷⁹ and Mithridates himself was finally undone not by Roman arms but by an internal rebellion led by his son Pharnaces, who at least claimed to be acting in Roman interests.⁸⁰ In addition, various kings called on Pompey to arbitrate disputes which he settled, no doubt, in accordance with Rome's strategic objectives.⁸¹ In Judaea, for instance, both parties feared Pompey's power and sought his support in their dispute,⁸² but it is striking that Plutarch attributes Pompey's persuasive force as much to his virtue and mildness as to the military power at his disposal.⁸³

In short, very few of Pompey's 'eastern conquests' were won by the sword. This seems to have been apparent in the favourable accounts that stand behind Dio, Appian, and Plutarch. Indeed, Plutarch's comment that Mithridates' death was considered equivalent to that of 10,000 men (*Pomp.* 42.1) might reflect awareness that the actual figures were considered rather meagre. There is also evidence that Pompey's preference for diplomacy and humane solutions did not play well with all audiences.⁸⁴ In certain contexts, therefore, it was in Pompey's interests to present diplomatic achievements as military victories, as Augustus famously was to do following the return of the standards from Parthia.⁸⁵ Pompey's handling of Tigranes is the clearest example: Tigranes' name appeared in the *praefatio* to Pompey's triumph (Plin. *NH* 7.98), his son was among the captives, and images carried in the procession depicted Mithridates and Tigranes fighting, defeated, and in flight (App. *Mith.* 117). Yet Pompey also seems to have made much of the fact that Tigranes himself was not in the triumph, but was on his throne: according

⁷⁷ See e.g. Dio 37.6.1; Plut. *Pomp.* 41.1; Sherwin-White 1984, 208–9.

⁷⁸ Dio 36.45.3, 36.51–2; Plut. *Pomp.* 33. On the other hand, we cannot know what loss of life Pompey was indirectly responsible for through such machinations.

⁷⁹ Joseph. *AJ* 14.58–60; *BJ* 1.142–4.

⁸⁰ Plut. *Pomp.* 41.5; cf. Dio 37.11–13; App. *Mith.* 108–12.

⁸¹ See e.g. Dio 37.7a; Plut. *Pomp.* 39.3.

⁸² Joseph. *BJ* 1.128–9, 133–7; *AJ* 14.30–2, 37–8, 41.

⁸³ Plut. *Pomp.* 39.4: μέγα μὲν γὰρ ἦν ὄνομα τῆς δυνάμεως, οὐκ ἔλαττον δὲ τῆς ἀρετῆς καὶ πραότητος. ('For the name of his power was great, and not less that of his virtue and mildness.') The context concerns the Armenian and Parthian kings' approach to Pompey for arbitration in a territorial dispute (39.3).

⁸⁴ See below in the text and 'The pirate war', above.

⁸⁵ See e.g. Aug. *RG* 29.2; Gruen 1990, 397; Galinsky 1996, 155–6; Rich 2009, 143–4.

to Cicero, Pompey ‘thought it no less glorious both for himself and for this empire that it should be seen that a king had been created by him rather than chained’.⁸⁶ Plutarch attributes to Pompey a similar comment: ‘that he valued all the years to come above a single day’.⁸⁷ These passages may well preserve sentiments expressed by Pompey himself, perhaps in the *contio* associated with his triumph.⁸⁸ They also suggest mixed feelings at Rome about Pompey’s leniency not only towards pirates but towards Mithridates’ closest ally, to which Pompey felt obliged to respond.⁸⁹ Pompey’s answer, it seems, was that clemency was ultimately in Rome’s best interests.

Pompey’s virtues

The theme of Pompey’s moral excellence appears again in accounts of the Mithridatic campaign. The spectrum of virtues ascribed to him—qualities of kindness, clemency, restraint, and good faith—corresponds roughly to the framework of *Pro Lege Manilia*. Moreover, as in the pirate war, Pompey was able to achieve much by dint of his virtuous reputation. Thus, as we have seen, Plutarch says that Pompey was sought after as arbiter because of his and ἀρετή and πραότης (*Pomp.* 39.4), and that Tigranes fought Lucullus but chose to surrender to Pompey, having learned that he was rather ἥμερος and πρᾶος (33.2). In Appian, Tigranes’ decision to surrender is attributed to Pompey’s reputation for δικαιοσύνη and πίστις (*Mith.* 104).⁹⁰ For Valerius Maximus, Pompey’s treatment of Tigranes is an illustration of *clementia* and *humanitas* (Val. Max. 5.1.9–10). In addition, Diodorus (40.2) comments on Pompey’s

⁸⁶ Cic. *Sest.* 58: *nec minus et sibi et huic imperio gloriosum putavit constitutum a se regem quam constrictum videri*. Cicero also describes how, in what was surely a staged moment, Pompey raised the prostrate Tigranes and personally replaced his diadem (cf. Kaster 2006, 251). Admittedly Tigranes’ territory was much reduced, but Pompey reportedly told Tigranes he must blame that on Lucullus (Plut. *Pomp.* 33.4).

⁸⁷ Plut. *comp. Ag. et Pomp.* 3.2: ἡμέρας μᾶς αἰῶνα προτιμᾶν (cf. ‘Pompey and philosophy’, below). Val. Max. 5.1.9 paraphrases the Cicero passage. Cf. Diod. 40.4 for Pompey’s claim to have ‘defended’ (ὑπερασπίσας) Armenia.

⁸⁸ For the *contio*, see n. 131, below. At any rate, the rationale Cicero attributes to Pompey in *Sest.* 58 is unlikely to be fabrication. Pompey was present for at least part of Sestius’ trial (Cic. *fam.* 1.9.7 SB 20) and the published speech is carefully respectful of his views, despite some muted criticism (e.g. *Sest.* 62, 67).

⁸⁹ Concessions to foreigners could be unpopular; see e.g. C. Gracchus’s speech urging the Roman people to increase their revenues rather than grant territory to kings (ap. Gell. 11.10.3–4). Some sources celebrated Pompey’s clemency towards Tigranes (e.g. Plut. *comp. Ag. et Pomp.* 3.2; Val. Max. 5.1.9); Cicero (*Sest.* 58) arguably sounds a note of criticism in his insistence on the strength of Tigranes’ hostility towards Rome and his support for Mithridates. Moreover, it is Lucullus whom Cicero terms *summus vir atque imperator*, while Pompey is left to praise himself. Lucullus had been bent on defeating Tigranes by force of arms and had already secured major victories at Tigranocerta and Artaxata before he was recalled.

⁹⁰ Cf. Vell. 2.37.4, who has Tigranes say that he would not have surrendered to anyone but Pompey, ‘whom Fortune had exalted above all other men’ (*quem fortuna super omnes extulisset*).

ἐπιείκεια towards Hyrcanus' party in circumstances that would justify harsh punishment; Josephus (*AJ* 14.72; *BJ* 1.153) remarks on his ἀρετή, εὐσέβεια, and εὐνοια; and Dio attributes to Pompey the sentiment 'that greed is dangerous and to desire the possessions of others unjust', albeit with the rider, 'now that he was no longer able to use them'.⁹¹

Other qualities are demonstrated rather than named. For instance, Plutarch (*Pomp.* 36.6–7) specifies that the costly gifts Pompey received from the Iberians and from Stratonice were duly delivered to the city quaestors, and Appian (*Mith.* 115) describes the careful cataloguing of Mithridates' treasures. For Plutarch (*Pomp.* 36.2), Pompey's treatment of Mithridates' concubines, touching none of them but returning them all to their homes, is at once an illustration of restraint and kindness. The sources also emphasize Pompey's generosity towards Stratonice and his honourable treatment of Mithridates' body, including the provision of funeral expenses.⁹² Finally, as we shall see in the next section, Appian's account of Pompey's triumph highlights his humane treatment of the captives (*Mith.* 116–17).

Further tribute to Pompey's moral excellence comes from the eastern cities themselves. An inscription from Miletopolis, for example, honours Pompey, 'saviour and benefactor of the People and of all Asia, guardian of land and sea, because of his excellence and goodwill toward them'.⁹³ Another from Ilium commemorates Pompey's '[εὐσέβεια] towards the goddess' and 'εὐνοια towards the people, after having freed men from the barbarian wars [and the] dangers of pirates, and having established peace and safety both by land and sea'.⁹⁴ Many other inscriptions honour Pompey as benefactor, saviour, patron, founder, or some combination of the above.⁹⁵ In addition, a cult to Pompey is attested on Delos and he was accorded quasi-divine honours at Side.⁹⁶ While these honours are largely conventional, the number and spread of inscriptions is

⁹¹ Dio 37.7.2: τοιαῦτα γὰρ ἐφιλοσόφει, καὶ τό τε πλεονεκτεῖν δεινὸν καὶ τὸ τῶν ἀλλοτρίων ἐφίεσθαι ἄδικον εἶναι τότε ἔλεγεν ὅτ' οὐκέτ' αὐτοῖς χρῆσθαι ἐδύνατο. The context concerns Pompey's decision not to undertake a Parthian war.

⁹² Stratonice: Plut. *Pomp.* 36.6; App. *Mith.* 107. Mithridates: Dio 37.14.1; App. *Mith.* 113.

⁹³ ILS 9459: ὁ δῆ[μο]ς | [Γ]ναῖον Πομπήιον Γναῖο[υ] | υἱὸν Μάγνον, αὐτοκράτορα | [τ]ὸ τριτόν, σωτήρα καὶ εὖερ[γ]έτην τοῦ τε δήμου καὶ | τῆς Ἀσίας πάσης, ἐπὶ[π]την γῆς τε καὶ θαλάσ[σ]ης, ἀρετῆς ἕνεκα καὶ | [εὐ]νοίας εἰς αὐτόν (trans. Sherck).

⁹⁴ SEG XLVI 1565: ὁ δῆμος κα[ὶ] οἱ ν[ε]οί | [Γ]ναῖον Πομπήιον Γναίου | υἱὸν Μάγνον τὸ τρίτον | [αὐτοκράτ]ορα, τὸν πάτρωνα καὶ εὐεργέτην τῆς πόλεως | [εὐσεβεί]ας ἕνεκεν τῆς πρὸς τὴν θεὸν τὴν οὖσαν αὐτῷ | [---]ν καὶ εὐνοίας τῆς πρὸς τὸν δῆμον ἀπολύσαντα | [τοὺς μὲν ἀ]νθρώπους ἀπὸ τῶν βαρβαρικῶν πολέμων | [καὶ τῶν π]ιρατικῶν κινδύνων ἀποκαθεστακότα δὲ | [τὴν εἰρ]ήνην καὶ ἀσφάλειαν καὶ κατὰ γῆν καὶ κατὰ θάλασσαν (trans. Eilers). The restoration of εὐσεβεία is secure.

⁹⁵ See the inscriptions collected in Valverde 2001, 88–93 and Eilers 2002 (C66, C92, C95, C146, and C149). Cic. *Flacc.* 14 attests Pompey's *auctoritas* in Asia, recently freed by him from wars against pirates and kings.

⁹⁶ *I. Delos* 1641; *AE* 1966 462. There is also evidence for divine honours at Athens and Philadelphia, while the inscription on Pompey's tomb (App. *BC* 2.86) might indicate the existence of temples to Pompey: see e.g. Hoff 2005, 331; Crawford 1976, 210.

exceptional for this period,⁹⁷ as is the nature of some of the honours, which acknowledged not benefactions to particular cities but to the entire world. Mytilene, for instance, honoured Pompey for having ‘destroyed those who had seized the inhabited world by his wars on both land and sea’,⁹⁸ and the title ‘guardian of land and sea’ is recorded at Miletopolis and Colophon.⁹⁹ In some cases Pompey’s benefactions continued to be commemorated for centuries.¹⁰⁰

More surprising testimony to Pompey’s virtue comes from Josephus. Not only had Pompey captured Jerusalem, made the Jews tributary to Rome, and confiscated much of their territory; worst of all, he had entered the inner Temple, which none but the high priest was permitted to see (*AJ* 14.71–3; *BJ* 1.152–3). However, Josephus describes the intrusion as an ignorant blunder on Pompey’s part rather than a deliberate insult; he also emphasizes that Pompey did not touch the Temple treasure and promptly instructed the priests to carry out the appropriate cleansing rituals. Indeed, Josephus praises Pompey’s *εὐσέβεια* and *ἀρετή* (*AJ* 14.72) and says that, in making Hyrcanus high priest, he ‘acted in a way proper to a good general and attached the people to himself more through kindness than through fear’.¹⁰¹ While Josephus used pro-Roman sources and may have been influenced by them, his positive assessment of Pompey is nonetheless striking.

Most of these sources are obviously encomiastic, but part of Pompey’s ambition was to promote a new model of imperialism and, to that end, image was as important as reality. At the same time, the extent to which the ‘authorized’ version is echoed in inscriptions and in a source like Josephus suggests that, to a considerable degree, the reality measured up to the image. The fact that Pompey was also successful was a further endorsement of his *exemplum*. As Cicero suggested in *Pro Lege Manilia*, ethical imperialism was in Rome’s interests as well as the allies’.

POMPEY’S TRIUMPH

Pompey’s triumph emphasized the scale of his achievement and the variety of nations now subjected to Roman power. Placards, trophies, and captives

⁹⁷ See e.g. Eilers 2002, 143; Beard, North, and Price 1998, 1.145–7; Crawford 1976, 210.

⁹⁸ IG XII 2.202: ... κατα- | λύσαντα τοῖς κατάσχοντας | τὸν οἰκημέναν πολέμοις καὶ | κατὰ γὰρ καὶ κατὰ θάλασσαν (trans. Sherk). Cf. SEG XLVI 1565.

⁹⁹ ILS 9459; Eilers 2002, C92.

¹⁰⁰ For instance, coins bearing Pompey’s portrait continued to be minted at Soli-Pompeopolis during the second century AD (Trunk 2008, 107–17). Note also the widespread adoption of ‘Pompeian eras’ by eastern cities (see e.g. Freeman 1994, 160–5).

¹⁰¹ Joseph. *BJ* 1.153: ὅπερ ἦν προσήκον ἀγαθῷ στρατηγῷ, τὸν λαὸν εὐνοία πλέον ἢ δέει προσηγάγετο. Cf. Diod. 40.2 on the Jews’ preference for priestly rule.

portrayed a dazzling array of peoples, some previously unheard of at Rome, so that Pompey seemed to have triumphed over the entire world.¹⁰² Indeed, Dio (37.21.2) reports that the procession included one particularly large trophy with an inscription stating that it was a trophy of the *οἰκουμένη*—that is, the *orbis terrarum*.¹⁰³ Pompey also used the occasion to advertise the vast treasure he had brought to Rome and the dramatic increase in taxation revenues owing to his conquests.¹⁰⁴ But, at the same time, Pompey's triumph was a self-portrait of the 'humane conqueror', however contradictory that may seem to modern minds.

Appian's account (*Mith.* 116–17) is particularly striking in this regard. He details the nations over which Pompey triumphed; the kings, generals, and other captives who appeared in the procession; the ships, treasure, and arms taken; images that were displayed of the defeated kings, including Mithridates' suicide; and finally an inscription which proclaimed the number of ships captured, cities founded, and kings conquered. Again, there is no mention of enemy casualties, and neither does Appian refer to the trophies described by Plutarch and Dio. Instead, he emphasizes the *humanitas* of the triumphator. Pompey displayed 'a multitude of captives and pirates, none bound, but all in native dress'.¹⁰⁵ When he reached the Capitol, Pompey 'did not put to death any of the captives, like the rest of those who led triumphs, but sent them back to their homelands at public expense, apart from the kings'.¹⁰⁶ Moreover, Appian's report that two of the kings were later executed is in error, since young Tigranes escaped in 58 (Asc. 47C) and Aristobulus went on to cause further trouble in Judaea (Joseph. *BJ* 1.171). Instead of bloodshed, Pompey displayed works of art, images of barbarian gods in native costume, and even exotic trees.¹⁰⁷ On the other hand, it is not clear that Pompey's soldiers appeared in the procession.¹⁰⁸ Thus Pompey's triumph seems to have been as much a display of cultural and ethnographic interest as of domination and power, and one that was subsequently given material form in his theatre complex.¹⁰⁹

¹⁰² e.g. App. *Mith.* 116–18; Plut. *Pomp.* 45; Nicolet 1991, 69.

¹⁰³ Cf. e.g. *RRC* 426/4a; *lex Gabinia Calpurnia* ll. 14–21; Diod. 40.4; Cic. *Sest.* 67; Nicolet 1991, 32, 37–8.

¹⁰⁴ e.g. Plin. *NH* 37.16; Plut. *Pomp.* 45.3; App. *Mith.* 116.

¹⁰⁵ App. *Mith.* 116: *πλήθος αἰχμαλώτων τε καὶ ληστῶν, οὐδένα δεδεμένον ἀλλ' ἐς τὰ πατρία ἐσταλμένους.*

¹⁰⁶ App. *Mith.* 117: *παρελθὼν δ' ἐς τὸ Καπιτώλιον οὐδένα τῶν αἰχμαλώτων ἔκτεινεν ὡς ἕτεροι τῶν θριάμβους παραγόντων, ἀλλ' ἐς τὰς πατρίδας ἔπεμψε δημοσίοις δαπανήμασι, χωρὶς τῶν βασιλικῶν.*

¹⁰⁷ See e.g. Plin. *NH* 37.12–14, 12.20, 12.111–12; App. *Mith.* 117.

¹⁰⁸ Dio (37.20.6, 37.21.1) indicates that Pompey triumphed without his troops (cf. Lintott 1997, 2522); Appian (*Mith.* 117) mentions only Pompey's officers. It was unusual to triumph without soldiers (see e.g. Pittenger 2008, 91–3).

¹⁰⁹ See e.g. Kuttner (1999) and Gleason (1994, 19) on the relationship between Pompey's triumph and what Kuttner aptly calls his 'garden museum'. The fourteen statues of personified

Recently, Beard (2007, 128–32) has argued against any custom of executing captives. In her view, ‘the clever cultural paradox is that Pompey could become renowned for mercy by *not* doing something that was rarely done anyway’ (131). But there is strong evidence that the most noteworthy captives usually were executed as part of the triumphal proceedings.¹¹⁰ Cicero states that, as the triumphing general approaches the Capitol, he orders his captives to be led to the *carcer*, so that ‘the same day ends both the *imperium* of the victorious and the lives of the conquered’.¹¹¹ Livy, Josephus, and Dio also attest the custom.¹¹² At Caesar’s triumph in 46, the sparing of Arsinoe was again the exception to the rule, while Vercingetorix and others were put to death.¹¹³ It was certainly usual to execute pirates, as P. Servilius Isauricus had done at his triumph in 74,¹¹⁴ yet Appian (*Mith.* 116–17) specifies that even Pompey’s pirate captives were not chained or put to death. Pompey had transformed the gory denouement of the triumph into a very public display of *humanitas*.¹¹⁵

Similarly, we do not find any casualty figures associated with Pompey’s triumph. The requirement of 5,000 enemies killed in a single engagement shows how integral body counts were to the nature of the Roman triumph, and Pompey must have supplied specific figures.¹¹⁶ Yet only the dedicatory inscription preserved by Pliny from the temple of Minerva gives a tally, and that is an aggregate of those ‘defeated, scattered, killed, or received in surrender’,¹¹⁷ of which the last category comprised by far the greatest number,¹¹⁸ just as the vast majority of the 846 ships ‘sunk or captured’ were

‘nations’, for instance, presumably corresponded to the fourteen represented in his triumph (Plin. *NH* 36.41; cf. Nicolet 1991, 38; Monterroso 2008).

¹¹⁰ Cf. Versnel 1970, 95; Östenberg 2009, 160–3.

¹¹¹ Cic. *Verr.* 2.5.77: *idemque dies et victoribus imperi et victis vitae finem facit*.

¹¹² Liv. 26.13.15; Joseph. *BJ* 7.153; Zonaras 7.21 (from Dio book 6).

¹¹³ Dio 43.19.3–4. For other instances of captives executed, see e.g. Cic. *Verr.* 2.5.66; Liv. *per.* 11; Strab. 12.3.6; Joseph. *BJ* 7.154.

¹¹⁴ Cic. *Verr.* 2.5.64–77, even allowing for exaggeration.

¹¹⁵ In a normal triumph, the order for execution and the news of the enemy general’s death seem to have been announced publicly (Zonar. 7.21; Joseph. *BJ* 7.153); possibly at Pompey’s triumph an announcement proclaimed instead that the captives would be spared.

¹¹⁶ Val. Max. 2.8.1; Pittenger 2008, 110–11; Rosenstein 2004, 112–13. See e.g. Liv. 36.40.5–7 for the idea that bigger was better.

¹¹⁷ Plin. *NH* 7.97: *Cn. Pompeius Magnus imperator bello XXX annorum confecto fuis fugatis occisis in deditionem acceptis hominum centiens vicens semel LXXXIII depressis aut captis navibus DCC<C>XLVI oppidis castellis MDXXXVIII in fidem receptis terris a Maeotis ad rubrum mare subactis votum merito Minervae*. (‘Cn. Pompeius Magnus, imperator, having completed a war of thirty years, defeated, scattered, killed, or received in surrender 12,183,000 people, sunk or captured 846 ships, received into his protection 1,538 towns and forts, and subdued the land from Maeotis to the Red Sea, duly makes this offering to Minerva.’) It is not clear when or where Pompey made this dedication or how public it was (see Orlin 1997, 133–4). In addition, the language may be largely conventional; compare the ‘generals’ inscriptions’ collected in Riggsby 2006, app. B.

¹¹⁸ See ‘The pirate war’ and ‘The Mithridatic war’, above. Pliny’s comparison of Pompey and Caesar (*NH* 7.92–3) strengthens this conclusion (cf. Welch and Mitchell 2013, 98–9).

seized intact and their crews spared.¹¹⁹ Unlike other generals, it seems Pompey had little interest in advertising the number of people he had killed, or in killing them in the first place—and Pliny, at least, considered that to be a truer source of glory than the 1,192,000 death toll from Caesar's foreign wars alone.¹²⁰

It is also striking that not a single individual is known to have been sold into slavery as a result of Pompey's eastern campaigns.¹²¹ Possibly the only captives Pompey brought to Rome were the 324 princes, generals, pirate chiefs, hostages and their families, almost all of whom were sent home following the triumph.¹²² In other cases, where we hear the fate of captives, they were either repatriated or resettled in the numerous cities Pompey founded or repopulated, and it seems possible that most of Pompey's captives were accounted for in this way.¹²³ Of course, we cannot exclude that some were sold,¹²⁴ but what is reasonably clear is that, just as Pompey did not wish to be remembered for killing people, neither did he wish to be remembered for enslaving them. Once again, this stands in contrast with common practice and above all with Caesar's campaigns in Gaul, where Caesar himself claims to have enslaved tens of thousands of persons, even entire towns.¹²⁵

¹¹⁹ App. *Mith.* 116–17 and Plut. *Pomp.* 45.2 report 800 ships captured, of which, says Appian, 700 were brought to Rome intact.

¹²⁰ Plin. *NH* 7.92–3: *nam praeter civiles victorias undeciens cent<ena> et nonaginta duo milia hominum occisa proeliis ab eo non equidem in gloria posuerim, tantam etiam coactam humani generis iniuriam, quod ita esse confessus est ipse bellorum civilium stragem non prodendo. Iustius Pompeio Magno tribuatur DCCCXLVI naves piratis ademisse...* ('Now, for my part, I would not set down to [Caesar's] glory, aside from his civil victories, the 1,192,000 people killed by him in battles—so great an injury to the human race, even done under compulsion, as he himself confessed it to be by not publishing the slaughter of his civil wars. It would be more just to credit Pompey the Great with the 846 ships he took from the pirates...') Caesar's tally may derive from triumphal figures (Gelzer 1968, 167 n. 3; Rawson 1992, 437 n. 69). The Gallic war commentaries report very large numbers of enemy casualties (e.g. *BG* 1.29.3, 2.28.2, 2.33.5, 4.14–15, 7.28.4–5).

¹²¹ The widespread view that Pompey brought large numbers of Jewish slaves to Rome (for which see e.g. Smallwood 1976, 131; Gruen 2002, 22; Hezser 2005, 228–9) is without evidence. The sources usually cited are Cic. *Flacc.* 69; Joseph. *AJ* 14.71, 79 and *BJ* 1.154, 157–8; and Phil. *leg.* 155. But Cicero's reference to the 'enslavement' of the Jews is metaphorical (see Lavan 2013, 82), the only captives Josephus says Pompey brought to Rome were Aristobulus and his family (cf. Gruen 2002, 22 n. 47), and Philo makes no reference to Pompey. The large number of freed Jewish prisoners living in Rome in Philo's day more likely arrived as a result of later campaigns by Gabinius (Joseph. *AJ* 14.85; *BJ* 1.163) and Cassius, who is said to have sold 30,000 Jews into slavery at Taricheae (Joseph. *AJ* 14.120; *BJ* 1.180).

¹²² App. *Mith.* 117. It is not clear whether these were distinct from the 'multitude of captives and pirates' (116). Cf. Plut. *Pomp.* 45.4.

¹²³ See App. *Mith.* 96 on the repatriation of captives from the pirates' workshops and 'The settlement of the pirates', above. Pompey's city (re)founding programme continued in the Mithridatic campaign (see e.g. App. *Mith.* 115; Strab. 12.3.30).

¹²⁴ Dio's comment that Pompey 'furnished himself with the greatest wealth from the captives' (πλείστα δὲ χρήματα ἐκ τῶν αἰχμαλώτων πεπορισμένος, 37.20.4) could refer to the sale of captives, but more probably describes the taking of property or ransom money.

¹²⁵ e.g. Caes. *BG* 2.33.7, 3.16.4. Cf. *CIL* I² 2954, a dedication by P. Servilius Isauricus in 75 referring to the sale of captives, and other examples of large-scale enslavement in Thompson 2003, 24–5.

Instead, Pompey's achievements are portrayed as beneficial to the peoples of the east. In what seems to have been a novel development, inscriptions carried in the triumph proclaimed a large number of cities founded¹²⁶—that is, founded, restored, or reorganized.¹²⁷ As we have seen, Pompey's settlements were intended to benefit both the new inhabitants and the cities he repopulated.¹²⁸ Diodorus reports another inscription in which Pompey claimed to have 'freed the coast of the inhabited world...from the pirate war', 'delivered from siege' the kingdom of Ariobarzanes, Galatia, and the lands beyond, and 'defended' Paphlagonia, Pontus, Armenia, and Achaia, among other places.¹²⁹ The dedication to Minerva and the *praeformatio* to Pompey's triumph are more Rome-centric, describing places conquered or received as allies (Plin. *NH* 7.97) and 'the command of the sea restored to the Roman people'.¹³⁰ However, Pliny adds that Pompey said, in a *contio*, that he regarded his most glorious achievement as having received Asia as the remotest province and left it 'in the middle of the *patria*'.¹³¹ It is striking that Pompey, speaking before the Roman people, refers not to the *imperium populi Romani* but to an unusually inclusive 'fatherland' that extends well beyond Rome and Italy and is not restricted to Roman citizens¹³²—indeed, Pompey's *patria* encompasses the *orbis terrarum*.¹³³ The potential 'cosmopolitan' ramifications of this statement will be considered a little later.¹³⁴

¹²⁶ Thirty-nine according to Plut. *Pomp.* 45.2; App. *Mith.* 117 gives a total of twenty-nine. It was usual for triumphs to proclaim cities captured (Pompey claimed nearly 900: Plut. *Pomp.* 45.2) but his advertisement of cities founded seems to be new and receives the greater emphasis; in fact Appian mentions only the new cities.

¹²⁷ See e.g. App. *Mith.* 115; Strab. 12.3.31.

¹²⁸ See e.g. Plut. *Pomp.* 28.2–4; Strab. 14.3.3, 14.5.8; App. *Mith.* 96.

¹²⁹ Diod. 40.4: Πομπήιος Γναίου υἱὸς Μέγας αὐτοκράτωρ τὴν παράλιον τῆς οἰκουμένης καὶ πάσας τὰς ἐντὸς Ὠκεανοῦ νήσους ἐλευθερώσας τοῦ πειρατικοῦ πολέμου, ὃ ῥυσάμενός ποτε πολιορκουμένην τὴν Ἀριοβαρζάνου βασιλείαν, Γαλατίαν τε καὶ τὰς ὑπερκειμένας χώρας καὶ ἐπαρχίας, Ἀσίαν, Βιθυνίαν, ὑπερασπίσας δὲ Παφλαγονίαν τε καὶ τὸν Πόντον, Ἀρμενίαν τε καὶ Ἀχαΐαν, ἔτι δὲ Ἰβηρίαν, Κολχίδα, Μεσοποταμίαν, Σωφηνήν, Γορδυνήν... In what follows, Pompey also claims to have brought into subjection kings, tribes, and provinces, extended the frontiers of the empire, and secured and increased the revenues of the Roman people. This is clearly a different dedication from the one in the temple of Minerva (Plin. *NH* 7.97); possibly it was set up in the temple of Venus Victrix (Girardet 1991, 213; Nicolet 1991, 32) or in the east (Vogel-Weidemann 1985).

¹³⁰ Plin. *NH* 7.98: *imperium maris populo Romano restituisset*.

¹³¹ Plin. *NH* 7.99: *Summa summarum in illa gloria fuit (ut ipse in contione dixit, cum de rebus suis disserter) Asiam ultimam provinciarum accepisse eandemque medium patriae reddidisse*. ('The very greatest of great things in this glorious record was, as he himself said in a *contio*, when he discussed his *res gestae*, that he had received Asia as the most distant of provinces and left it in the middle of the *patria*.') Presumably this was the speech customarily delivered by a general in a *contio* following his triumph (see Pina Polo 2011, 92).

¹³² Compare Cicero's paraphrase (*prov. cons.* 31):...*Asia, quae imperium antea nostrum terminabat, nunc tribus novis provinciis ipsa cingatur*. ('Asia, which used to mark the boundary of our *imperium*, is itself now surrounded by three new provinces.') Cf. Flor. *ep.* 1.40.31.

¹³³ See n. 103 for Pompey's claim to have triumphed over the *orbis terrarum*.

¹³⁴ See 'Pompey's *patria*', below.

PROFITS OF EMPIRE

Of course, the greatest beneficiaries of Pompey's eastern campaigns were the Roman people, whose revenues he claimed to have increased from 50 to 85 million drachmae,¹³⁵ not counting the vast treasure he brought to Rome or the huge profits to Pompey himself, his officers, and his men.¹³⁶ Pompey's most significant public benefaction, his theatre complex, not only commemorated his eastern campaigns but was financed by them.¹³⁷ Furthermore, the new territory he added brought with it new opportunities for tax farmers and other businessmen, while Pompey himself engaged in moneylending on an enormous scale.¹³⁸ For Badian and other modern scholars, Pompey was not only a 'champion' of equestrian business interests, but literally 'owner' of the east.¹³⁹

By today's standards, all this is difficult to reconcile with Pompey's positioning of himself as a benefactor of the allies. To a Roman mind, however, 'profits of empire' were not incompatible with just rule, and it is my intention to show, in this section, that the modern portrait of Pompey has been overdrawn. Although Pompey was responsible for introducing the notorious *publicani* into the new territory he organized,¹⁴⁰ the notion that he acted to maximize the profits of the equestrian order is without support; on the contrary, it appears that he attempted to ameliorate some of the worst aspects of the tax farming system, while in other respects his handling of public finances corresponded to Roman 'best practice'. Thus the economic exploitation of the east does not negate Pompey's achievement in pursuing a more ethical imperialism.

Two points are worth making at the outset. First, as I noted in the introduction, even those Romans most concerned with the ethics of imperialism never questioned Rome's right to extract revenue from the provinces.¹⁴¹ Indeed, to a great extent Rome simply took over existing revenues and

¹³⁵ Plut. *Pomp.* 45.3—or perhaps by 50 million drachmae: see e.g. Kay 2014, 72–3 n. 87, with further references.

¹³⁶ Plin. *NH* 37.16 records that Pompey gave HS 200 million to the state, 100 million to the *legati* and quaestors, and 6,000 to each soldier. See Shatzman 1975, 391–2 and 'Pompey's personal profits', below.

¹³⁷ See Shatzman 1975, 392.

¹³⁸ See e.g. Shatzman 1975, 391 and 'Pompey's personal profits', below.

¹³⁹ Badian 1972, 112; 1968, 83–4. The latter passage is cited frequently. For Pompey as agent of equestrian business interests, cf. e.g. Frank 1914a, 323–5; Cobban 1935, 127–8. *Contra*: Sherwin-White 1984, 202–3, 232–3; Brunt 1988, 188.

¹⁴⁰ Cic. *Att.* 2.16.2 SB 36 implies that Pompey was personally responsible for arranging revenues in the new territory; apparently these were not dependent on the ratification of his *acta*, since in March 60 the tribune L. Flavius proposed to fund his agrarian bill out of the new *vectigalia* (*Att.* 1.19.4 SB 19).

¹⁴¹ See introduction, 'What was good government?'. Thus Cicero could portray even Cato as more careful of the revenues than the welfare of the allies (*off.* 3.88), while he himself pronounced the taxes and the *publicani* who farmed them the mainstays of the state (*leg. Man.* 117).

collection methods.¹⁴² Secondly, the use of tax farmers was regarded as unavoidable (and was not unique to Rome).¹⁴³ *Publicani* relieved Rome of the burden of maintaining its own tax-collecting bureaucracy, converted into cash a wide variety of in-kind payments, and reduced the need to transport coined money (Hollander 2007, 94–5). Perhaps most importantly, they made Rome's revenues more certain and more secure by contracting at a fixed sum for the innately variable proceeds of various taxes, and by guaranteeing that sum to the treasury at private risk (Lintott 1993, 86). For these reasons, *publicani* were never replaced. While Caesar removed them from the collection of the main tithe in Asia, there is no evidence he extended this policy to other imposts or to other provinces,¹⁴⁴ and in fact the vast majority of 'indirect' taxes continued to be farmed throughout the principate (Brunt 1990, 393). The use of *publicani* therefore should not be seen, in itself, as a failing of republican provincial governance or of Pompey's settlement.

Indeed, there is no reason to think that regular exploitation at something resembling the legal rate would have been intolerable or unsustainable.¹⁴⁵ The worst problem was not taxation per se, or even the tax-farming system, but the abuse of it, as Cicero remarked regarding the recently abolished Italian *portoria* (Q. fr. 1.1.33 SB 1).¹⁴⁶ The same applied in the provinces, only more so. At best, it was evidently standard practice for the *publicani* to extract more than their due under the censorial contract; at worst, they were responsible for usurious loans, crippling penalties, even physical violence and murder.¹⁴⁷ Structural factors were part of the problem, in that equestrian jurors sat in judgement on the magistrates who were supposed to supervise the *publicani*.¹⁴⁸ Still, abuses could be controlled by a firm governor, and do seem to have been in the late republic, to a greater extent than is often recognized.¹⁴⁹ There is reason to think this was due in part to Pompey's arrangements.

¹⁴² See e.g. Cic. Verr. 2.3.14 and *passim* on the *lex Hieronica* in Sicily, the *lex portorii Asiae* ll. 67–9 on the continuity of Attalid arrangements in Asia, and Liv. 45.29.10–11 on the royalties from the Macedonian mines, where Rome took only half what had been paid to the kings.

¹⁴³ As Cicero points out: Q. fr. 1.1.33 SB 1.

¹⁴⁴ See chapter 4, 'Cato and the *lex Julia*' on Caesar's changes and the *lex portorii Asiae* for the continued collection of *portorium* by *publicani*.

¹⁴⁵ Cf. Hollander 2007, 95. As Broughton (1938, 545) points out, Asia's swift recovery under Lucullus' arrangements (Plut. Luc. 20) indicates the great wealth-producing capacity of the province. Cicero claimed that his reforms in Cilicia in 51–50 enabled the province to pay its taxes and five years' arrears as well (Att. 6.2.5 SB 116; *fam.* 2.13.4 SB 93). Cf. e.g. Verr. 1.41, where Cicero ascribes to the Sicilians the sentiment that they could meet the cost of a governor's greed (on top of regular taxation) but not also his acquittal.

¹⁴⁶ Another problem was the dual function of *publicani* as tax farmers and moneylenders; see e.g. Broughton 1938, 539–42.

¹⁴⁷ See e.g. Cic. Q. fr. 1.1.35 SB 1; Diod. 37.5.2–4. Note, however, that this evidence comes from the province of Asia; *publicani* seem to have been more effectively controlled in the territory added by Pompey.

¹⁴⁸ See chapter 1 and e.g. Badian 1956, 114.

¹⁴⁹ See Tan (forthcoming, ch. 2) and the evidence for Cilicia and Syria given below ('Pompey and the *publicani*').

Pompey and the *publicani*

There are two main schools of thought on taxation arrangements under Pompey's settlement. Badian (1972, 99) argues that Pompey cloned the 'Gracchan' or 'Asian' tax-farming system in his new and newly-organized provinces. Broughton and Sherwin-White hold that he modified it, so that local communities acted as intermediaries between producers and *publicani*, who were also subject to greater control by the governor.¹⁵⁰ Both views rest on the same slender evidence and both tend to oversimplify the picture; more recently Lintott (1993, 79) has argued that Pompey probably maintained traditional forms of taxation in Bithynia and Syria, and in general it seems likely that Pompey's arrangements were shaped more by local conditions than by any overarching policy.¹⁵¹ Few details are recoverable, but there is no evidence for the view that Pompey organized the east as a tool of the *publicani*.¹⁵²

One suggestive example is the heterogeneous organization of Bithynia-Pontus.¹⁵³ After Pompey, *publicani* operated on a large scale within the former kingdom of Bithynia.¹⁵⁴ However, the area was in Roman hands before Pompey's eastern campaigns and it is likely *publicani* were already collecting at least some of the taxes and revenue from public land.¹⁵⁵ Probably Pompey found it convenient to expand their role.¹⁵⁶ That may explain the *Bithynica societas* which, says Cicero, 'consists of the other companies'.¹⁵⁷ Arrangements were different in Pontus, a fact which reflects different local conditions and, perhaps, some rethinking of the principles of provincial organization in the new territory, where Pompey had a freer hand.¹⁵⁸ *Publicani* were present in Pontus in some capacity (*Bell. Alex.* 41, 70); however, rather than making the royal lands into *ager publicus*, as had happened in Bithynia and as P. Servilius Rullus seems to have expected in 63 (*Cic. leg. agr.* 2.51), Pompey assigned

¹⁵⁰ Broughton 1938, 533, 537; Sherwin-White 1984, 232–3. Cf. Esch 2011, esp. 61–2.

¹⁵¹ Cf. e.g. Brunt 1988, 188–9. Freeman 1994 emphasizes the ad hoc character of Pompey's 'settlement'.

¹⁵² As argued notably by Frank 1914a, esp. 323–5; cf. e.g. Badian 1972, 98–100, 112; Cobban 1935, 127–8.

¹⁵³ Pompey added part of Pontus to Bithynia to form *Bithynia et Pontus* (see e.g. *Cic. red. sen.* 38), governed by a single *lex Pompeia* (*Plin. ep.* 10.12.1).

¹⁵⁴ See *Cic. fam.* 13.9 SB 139.

¹⁵⁵ *Cic. leg. agr.* 2.50; cf. Memn. 27.6 with Brunt 1990, 5 and Kallet-Marx 1995, 302. Bithynia had been bequeathed to Rome in (probably) early 74 and M. Iunius Iuncus swiftly dispatched to organize the province (see Ward 1977).

¹⁵⁶ Cf. Jones 1971, 156. As Jones notes, vested interests will also have ruled out removing the *publicani* from the Bithynian royal lands (161).

¹⁵⁷ *Cic. fam.* 13.9.2 SB 139: *constat enim ex ceteris societatibus*. Cf. Magie 1950, 1255.

¹⁵⁸ Pontus generally lacked the Hellenistic cities that were vital to Roman provincial rule. In some areas Pompey reorganized populations under new or existing self-governing cities, while other areas were placed under princes and tetrarchs: see e.g. Jones 1971, 157–9; Fletcher 1939.

Mithridates' former domains to cities and princes.¹⁵⁹ As Sherwin-White (1984, 232) points out, these arrangements show Pompey in no hurry to expand the opportunities of the *publicani*.

In Cilicia, too, *publicani* were active before Pompey enlarged the province, and we know that earlier tax-farming arrangements survived Pompey's reorganization: Cicero's reference to *pactiones* made under P. Servilius Isauricus implies that essentially the same standard-form agreements continued to be used in the 50s as in the 70s.¹⁶⁰ We have no specific evidence for taxation arrangements in the new territory added by Pompey, and what evidence we do have for tax farming in Cilicia is complicated by the fact that the three Phrygian communes of Asia were temporarily attached to Cilicia between 56 and 49.¹⁶¹ It does appear, however, that the companies operating elsewhere in Cilicia were smaller than those active in the Asian communes.¹⁶² Sherwin-White may be right, therefore, that contracts in Cilicia proper were sold by the governor, commune by commune, rather than en bloc by the censors at Rome, thus avoiding the creation of the kind of powerful monopoly found in Asia.¹⁶³ It is also worth noting that governors of Cilicia in the 50s seem to have kept the *publicani* under effective control. Cicero comments in 50 that the cities had paid nothing for either the present or the previous *lustrum*, and the *publicani* evidently had not been able to force payment.¹⁶⁴ Pace Badian (1972, 116), that need not reflect badly on Ap. Claudius Pulcher, and we have Cicero's testimony to the *aequitas* of P. Cornelius Lentulus Spinther, which had offended the tax farmers (Cic. *fam.* 1.9.26 SB 20). Whether the curbing of the *publicani* in the 50s was due purely to the character of individual governors or also to Pompey's arrangements in Cilicia, we cannot say.

In Syria Pompey had a relatively clean slate, in that the territory had never been subject to Roman rule. Arrangements in Syria might, therefore, offer insight into Pompey's views on provincial taxation, adapted as necessary to local conditions. Once again the evidence is scant and ambiguous, but what is reasonably clear is that Pompey did not replicate the Asian system in the manner Badian suggested (1972, 99). There were certainly *publicani* in Syria;¹⁶⁵ however, they probably operated alongside other, local, collection

¹⁵⁹ Sherwin-White 1984, 232; Fletcher 1939, 27; Jones 1971, 159; Broughton 1934, 212.

¹⁶⁰ Cic. *Att.* 6.1.16 SB 115. The *lex Antonia de Termessibus* of c.68 (RS no. 19, col. 2, ll. 18–22 and 31–6) also attests *publicani* in Cilicia before Pompey.

¹⁶¹ Laodicea, Synnada, and Apamea: see Syme 1939, 301; Habicht 1975, 68–71; Burton 1975, 93. Cic. *Att.* 5.21.7 SB 114 calls them 'my districts of Asia' (*Asiae nostrarum dioecesium*). Naturally Pompey was not responsible for arrangements in these areas.

¹⁶² Cicero (*Att.* 5.15.3 SB 108) commends to Atticus the couriers of the company farming *scriptura* and *portoria* for the Asian communes, which suggests that the others were smaller and thus less useful as a mail service: Badian 1972, 107.

¹⁶³ Sherwin-White 1992, 270; 1984, 232–3 n. 117. There is no direct evidence, however.

¹⁶⁴ Cic. *Att.* 6.2.5 SB 116. Cf. *fam.* 2.13.4 SB 93; Broughton 1938, 537.

¹⁶⁵ Cic. *prov. cons.* 9–10; *Pis.* 41, 48; *Q. fr.* 2.12.2 SB 16; *Caes. BC* 3.31.2.

methods,¹⁶⁶ and they were kept under firm control by Syria's governors. Sherwin-White credits this to Pompey's arrangements which, he argues, allowed Gabinius to transfer collection from *publicani* to civic officials, apparently without violating the *lex provincia*.¹⁶⁷ Certainly Gabinius restricted the *publicani* in various ways. Cicero (*prov. cons.* 10) complains that he had annulled *pactiones*, freed many from taxation, and barred *publicani* from towns he was visiting. Badian (1972, 109–20) contends that Gabinius was undermining the taxation system for his own profit, but, in view of Josephus' laudatory account and Gabinius' earlier legislation for the benefit of foreigners, it is more likely he was attempting to protect provincials.¹⁶⁸ Moreover, Gabinius' close relationship with Pompey and Pompey's ardent support for him at his subsequent trials suggest that Gabinius was continuing the spirit of Pompey's settlement rather than undermining it.¹⁶⁹ Later, too, M. Calpurnius Bibulus seems to have taken a strict attitude towards the *publicani* when he governed Syria.¹⁷⁰

Arrangements in Judaea may have been different.¹⁷¹ Josephus states that Pompey made the Jews tributary to Rome, though what form that tribute took is unclear.¹⁷² Under Caesar, the Jews paid tribute (*φόρος*) to the Roman authorities at Sidon (Joseph. *AJ* 14.203), and Sherwin-White (1984, 232) argues that Caesar simply confirmed Pompey's arrangements.¹⁷³ On the other hand, Cicero's comment that the Jewish nation had been 'leased out and enslaved' might imply the use of *publicani*,¹⁷⁴ though it is possible he is referring to former Jewish territory confiscated by Pompey and annexed to the

¹⁶⁶ See e.g. Lintott 1993, 79–80. For instance, the poll tax levied in Appian's day (*App. Syr.* 50) might reflect local arrangements preserved by Pompey.

¹⁶⁷ Sherwin-White 1984, 232–3 n. 117, citing Cic. *prov. cons.* 9–10.

¹⁶⁸ Joseph. *AJ* 14.82–103; *BJ* 1.160–78; see chapter 1, 'Pompey's programme and the tribunes of 67' on Gabinius' legislation. Lintott (1993, 27) supposes that what Gabinius cancelled was arrears of taxation, in which case we might compare Lucullus' debt-relief measures in Asia (Plut. *Luc.* 20).

¹⁶⁹ e.g. Dio 39.55.4, 39.63.3–4; Cic. *Q. fr.* 3.3.3 SB 23, 3.4.1–2 SB 24. Gabinius was convicted of extortion, but that need not reflect badly on his administration of Syria: Gabinius' real victims were not provincials but *publicani* (Cic. *Pis.* 41; *prov. cons.* 10), and his trial was primarily concerned with the restoration of Ptolemy Auletes (see chapter 5, 'The date of Rabirius' trial').

¹⁷⁰ Cic. *Att.* 6.1.15 SB 115; see chapter 8, 'Bibulus in Syria'.

¹⁷¹ Judaea has received disproportionate scholarly attention despite the meagre evidence, much of which does not distinguish between Judaea and Syria. Indeed, it is possible Judaea was considered part of the province of Syria from 63 until 40 (see Braund 1984, 65; cf. Freeman 1994, 169, with further references). Josephus never mentions Roman tax farmers.

¹⁷² Joseph. *AJ* 14.74: καὶ τὰ μὲν Ἱερουσόλυμα ὑποτελῆ φόρον Ῥωμαίοις ἐποίησεν. Dio's statement (39.56.6) that Gabinius imposed φόρος on the Jews might refer to a change in the method of collection or a one-off impost.

¹⁷³ Sherwin-White 1984, 23, but see Brunt 1988, 189. Lintott (1993, 79–80) and Pastor (1997, 89) suggest that Jewish tribute was collected by local means.

¹⁷⁴ Cic. *Flacc.* 69: *elocata... serva facta*. Cf. *prov. cons.* 10; Momigliano 1992, 247–8; Braund 1984, 65. Recently, Udoh (2005, ch. 1) has argued that *publicani* were present in Judaea from 63 but played only a limited role due to ongoing instability in the region.

province of Syria.¹⁷⁵ Gabinius' changes are also the topic of debate. Momigliano (1992, 247–8) thought Gabinius expelled the *publicani* from Judaea;¹⁷⁶ Smallwood argues that he limited their activities by substituting direct collection, so far as possible, and sees the creation of *synhedria* (regional councils) as part of that reform.¹⁷⁷ But there is no solid evidence that *publicani* were present in the first place.

In summary, then, while Pompey introduced *publicani* in many areas, there is no support for the view that he replicated the 'Asian' system or organized the east with the financial interests of *equites* in mind. Instead, he proceeded with regard to local conditions and, it seems, the shortcomings of the tax farming system; at least, what evidence we have suggests that *publicani* were effectively controlled in the areas organized by Pompey, including Cilicia under Lentulus Spinther, Ap. Claudius, and Cicero, and Syria under Gabinius and Bibulus.¹⁷⁸

Pompey's personal profits

Pompey himself also profited enormously from his eastern campaigns, but there is no evidence that he acted inappropriately by Roman standards. Although he was responsible for collecting vast treasure and large payments from kings and potentates, he seems to have made a point of playing by the rules. For instance, Velleius states that all the money received from Tigranes was handed over to the quaestor and detailed in the public records 'as was Pompey's custom',¹⁷⁹ and Appian (*Mith.* 115) records that thirty days were spent cataloguing the contents of Mithridates' storehouse at Talaurei. Diligent record-keeping was the basis of public accountability and the hallmark of an upright governor,¹⁸⁰ and (as far as we know) everything Pompey brought back from the east was stored or used appropriately.¹⁸¹ Even more suspect payments, like the 1,000 talents Pompey is said to have received from Dionysius of

¹⁷⁵ Pompey confiscated most of the territory previously controlled by the Jews: Joseph. *AJ* 14.74–6; *BJ* 1.155–7.

¹⁷⁶ Braund (1983, 242–3) refutes this view.

¹⁷⁷ Smallwood 1976, 32–3, 41; Joseph. *AJ* 14.91; *BJ* 1.170.

¹⁷⁸ Perhaps also C. Memmius in Bithynia: see Braund 1996, though Cairns (2003, 177–8) argues that Catullus' comments tell us more about Bithynia's poverty than Memmius' probity.

¹⁷⁹ Vell. 2.37.5: ... *ingenti pecunia quae omnis, sicuti Pompeio moris erat, redacta in quaestoris potestatem ac publicis descripta litteris*. This is to be preferred to Appian's testimony (*Mith.* 105) that Tigranes gave 6,000 talents to Pompey personally. Strab. 11.14.10 says the money was distributed among the army. Plut. *Pomp.* 33.5 and App. *Mith.* 105 indicate that Tigranes gave money to the soldiers in addition to the 6,000 talents.

¹⁸⁰ See e.g. Churchill 1999, 103 and chapter 1, 'Exempla in the Verrines'.

¹⁸¹ See Plin. *NH* 37.12 on the *acta Pompei triumphorum*, apparently official records of items displayed in the triumph, and e.g. Plin. *NH* 37.11, 14, 18; Plut. *Pomp.* 36.6–7; Strab. 12.3.31; Joseph. *AJ* 14.34–6 for particular items delivered to the treasury and/or dedicated in temples.

Tripoli as the price of his pardon, seem to have been regarded officially as legitimate contributions towards military expenses.¹⁸² So, however questionable the taking of spoils and indemnities may appear to modern eyes, from a Roman perspective Pompey's conduct was quite proper, even exemplary. It accorded fully with the principle that the profits of empire belonged to the Roman people, and with the high standard set by *Pro Lege Manilia*.¹⁸³

For these reasons it is unlikely that Pompey's personal profits came from booty, as scholars used to assume.¹⁸⁴ Churchill has shown that a general (unlike his officers and men) was not entitled to keep booty as his personal property. Although he retained control over *manubiae*, he had to use them for public purposes (such as, in Pompey's case, the theatre complex) or else face charges of *peculatus*.¹⁸⁵ Rosenstein (2011, 151) suggests, instead, that Pompey's profits came primarily from the numerous lavish gifts he received during the eastern campaigns. But this may not be the answer either, since in several cases the sources report Pompey forwarding such gifts to the treasury or dedicating them in temples;¹⁸⁶ indeed, the *lex repetundarum* seems to have prohibited magistrates from accepting gifts while abroad.¹⁸⁷ Probably most of Pompey's personal profits came from investments made in his private capacity, including the notorious loan to Ariobarzanes II which in 50 was producing thirty-three talents (HS 792,000) per month in interest, and that at less than the full rate.¹⁸⁸ The loan seems to have been legal, however, and Cicero, at least, felt that Pompey was acting *clementer*. In any case foreign kings, more so than provincials, seem to have been regarded as 'fair game' for Roman financial interests.¹⁸⁹

¹⁸² Joseph. *AJ* 14.39 records that Pompey used the money to pay his troops. Pompey's testimony at Gabinius' trial in 54 (*Cic. Rab. Post.* 34) shows that such contributions were considered legitimate.

¹⁸³ See *Cic. leg. Man.* 27–41, 64–7. Cicero emphasizes Pompey's probity and restraint, and comments that he neither plundered allied towns nor profited from public funds.

¹⁸⁴ e.g. Badian 1968, 84; Shatzman 1975, 391.

¹⁸⁵ Churchill 1999 (*contra* Shatzman 1972). *Manubiae* was 'public property in private hands' (Churchill 1999, 112). Churchill suggests that it consisted of everything that was not looted by soldiers (92–3).

¹⁸⁶ *Plut. Pomp.* 36.6–7; Joseph. *AJ* 14.34–6.

¹⁸⁷ See chapter 4, 'The *lex Julia de pecuniis repetundis*'.

¹⁸⁸ *Cic. Att.* 6.1.3 SB 115. The circumstances of the loan are not known. Badian (1968, 82–3) suggests that the principal (perhaps as much as 3,300 talents) represented the price of Ariobarzanes' recognition as king of Cappadocia. Badian assumes Pompey had similar investments in other kingdoms as well.

¹⁸⁹ For instance, Gabinius seems to have attempted to enrich himself in his dealings with princes while protecting provincials (see Sherwin-White 1984, 276), and Cicero's indignation over Brutus' dealings with the Salaminians (*Cic. Att.* 5.21.10–13 SB 114, 6.1.5–7 SB 115, 6.2.7–9 SB 116) did not extend to Brutus' loan to Ariobarzanes of Cappadocia (5.18.4 SB 111, 5.20.6 SB 113, 6.1.3–4 SB 115). Indeed, Cicero says that he granted prefectures to two agents of Brutus active in Cappadocia (but not to Scaptius in Cyprus) because they were not doing business in his province (*Att.* 6.1.4 SB 115).

Where Pompey does seem to have attracted criticism was in connection with the conduct of his friends, most notoriously his freedman Demetrius of Gadara, who amassed an immense fortune during his service with Pompey.¹⁹⁰ The source (and legality) of Demetrius' wealth is not known,¹⁹¹ and probably criticism in later sources has been exaggerated in light of attitudes to imperial freedmen,¹⁹² but it was evidently considered a fault in Pompey that the likes of Demetrius had been able to become so rich.¹⁹³ Interestingly, however, Plutarch tries to make even Pompey's failure to restrain his friends an illustration of his good qualities (*Pomp.* 39.4, 40.4).

In short, while the financial side of Pompey's eastern campaigns hardly constitutes a jewel in the crown of the 'humane conqueror', and does not show the same energy for reform as other aspects of his policy, by Roman standards Pompey's conduct was consistent with or even an improvement on accepted practice. Tellingly, the ethically-minded Cato could compete with Pompey in the wealth they had brought to Rome.¹⁹⁴ The exploitation of the east does not, therefore, diminish Pompey's ethical credentials in other departments. Returning to that bigger picture, the remainder of this chapter will consider the affinities between Pompey's attitude to empire and Stoic ethics, and the possibility that Pompey was in fact influenced by philosophical ideas.

POMPEY AND PHILOSOPHY

There is broad agreement that the source tradition on Pompey's humane solution to the pirate problem derives from the philosopher-historian Posidonius.¹⁹⁵ The parallels with other Posidonian material are compelling.¹⁹⁶ Most importantly,

¹⁹⁰ Plut. *Pomp.* 2.4, 39.4, 40.5; Dio 39.38.6; Sen. *tranq.* 8.6. Cf. e.g. Joseph. *BJ* 1.128 on money received by Pompey's quaestor M. Aemilius Scaurus.

¹⁹¹ Possibly Demetrius' wealth came partly from gifts; see Plut. *Pomp.* 40 and *Cat. Min.* 13 on the favour shown to Demetrius on account of his influence with Pompey.

¹⁹² See e.g. Mouritsen 2011, 109–18 on hostility towards rich freedmen.

¹⁹³ According to a story in Dio 39.38.6, it was really Demetrius who built Pompey's theatre, to deflect criticism of Pompey for allowing a freedman to become so rich. We should also consider the possibility that Demetrius afforded a 'back-door' means by which Pompey himself could acquire wealth.

¹⁹⁴ Plut. *Cat. Min.* 45.2; see chapter 3, n. 96.

¹⁹⁵ Capelle (1932, 102–3) identified Strabo's account of the rise of piracy as Posidonian. Strasburger (1965, 43) adduced further reasons and argued that the parallel accounts of piracy in Plutarch and Appian are also from Posidonius, including their treatment of Pompey's solution. See also Breglia 1972, 349–57, 362; Verbrugghe 1975, 200–1; Konrad 1994, xlii–xliii. Malitz (1983, 57, 168) and Tröster (2009, 24, 31) also incline, cautiously, to this view. Pelling (2007, 252) raises the additional possibility that Posidonius published on the pirates prior to Pompey's command, 'sketching a problem that the Romans still had to solve', in which case the Posidonian flavour of Pompey's solution would be stronger evidence for Posidonius' influence on Pompey than if Posidonius had treated the campaign himself.

¹⁹⁶ See Strasburger 1965, 43 with n. 37; Verbrugghe 1975, 200–1.

the pirates, like Spanish brigands or rebellious slaves, are regarded not as criminals but as victims of circumstance—of poverty in the case of pirates and brigands; of brutal treatment in the case of slaves.¹⁹⁷ The importance of effective but fair governance is another theme; thus the weakness of the Seleucids is implicated in the rise of Cilician piracy,¹⁹⁸ while Roman rule can bring peace even to poor, remote, and piratical regions.¹⁹⁹

We know that Strabo, Plutarch, and (almost certainly) Appian used Posidonius.²⁰⁰ We also know that Posidonius wrote about Pompey, although the identity of the work remains a problem. Strabo (11.1.6) says that Posidonius wrote ‘τὴν ἱστορίαν...τὴν περὶ αὐτόν’, which must mean investigations about Pompey (Kidd 1988, 331–3). Strasburger (1965, 44) argues that Posidonius’ *Histories* continued beyond the usually assigned end date to cover Pompey’s eastern campaigns.²⁰¹ While the Suda and the pattern of Athenaeus’ citations would seem to indicate an end date in the 80s,²⁰² the Suda is too confused to be reliable and it is possible that Athenaeus did not have access to the whole of Posidonius’ work. In Strasburger’s view (1965, 51), Posidonius drew a pointed contrast between Pompey’s settlement of the pirates and the harsh (and ultimately unsuccessful) methods of Roman commanders in Spain, probably with didactic intent.²⁰³ Other possibilities are an excursus or appendix to the *Histories* (Malitz 1983, 73–5) or a separate monograph;²⁰⁴ for present purposes, it is not necessary to decide.²⁰⁵

¹⁹⁷ Pirates: App. *Mith.* 92, 96; Plut. *Pomp.* 28.3. Spanish brigands: e.g. Strab. 3.3.5; Diod. 5.34.6. Slaves: Diod. 34/5.2.25–33. The material from Strabo and Diodorus can be traced to Posidonius. Strabo cites Posidonius frequently in book 3, and comparing Strab. 3.2.9 (where Posidonius is named) with Diod. 5.38.4 shows that Diodorus also used Posidonius on Spain: see e.g. Sacks 1990, 108; Strasburger 1965, 51. Likewise, comparison between Diod. 34/5.2.34 and Athen. 12.542b (citing Posidonius) shows that Diodorus’ account of the first Sicilian slave revolt derives from Posidonius: see e.g. Kidd 1988, 129, 294; Sacks 1990, 144–5.

¹⁹⁸ Strab. 14.5.2. The passage very likely derives from Posidonius: see Capelle 1932, 102–3 n. 2; Strasburger 1965, 43 n. 43; Malitz 1983, 164–6.

¹⁹⁹ e.g. Strab. 3.3.5, 8; Capelle 1932, 103–4; Strasburger 1965, 46; de Souza 1999, 202–3.

²⁰⁰ Plutarch cites Posidonius by name (e.g. *Marcell.* 20.7; *Mar.* 45.4; *Brut.* 1.7). On Appian, see e.g. Strasburger 1965, 41–3; Malitz 1983, 59; Rich 2015, 113.

²⁰¹ Cf. Verbrugghe 1975, 203 n. 29; Rawson 1985, 106.

²⁰² See Malitz 1983, 70; Suda π 2108.

²⁰³ The nature of Posidonius’ history cannot be discussed in detail here, but it seems clear that it was intended to serve an exemplary function, perhaps particularly in the sphere of imperial governance. In Strasburger’s words (1965, 51–2 n. 88), Posidonius aimed ‘to create not just a beautiful academic theory, but a constructive contribution to the solution of the world’s problems’. Cf. Momigliano 1975, 33–5; Gruen 1984, 354; Kidd 1989; Malitz 1983, 416. Posidonius was clearly regarded as influential, as Cicero’s request shows (*Cic. Att.* 2.1.2 SB 21), and, for that reason, he could realistically hope to affect the behaviour of Roman statesmen. Above all, he urged the humane treatment of Rome’s subjects, as both Stoic cosmopolitanism and Rome’s own interests demanded.

²⁰⁴ See e.g. Reinhardt 1953, cols 638–40; Strasburger 1965, 44; Malitz 1983, 73–5; Kidd 1988, 332.

²⁰⁵ Cf. Strasburger 1965, 44.

A more important question is whether Pompey's 'Posidonian' solution also reflects Posidonian influence on Pompey himself. Leach (1978, 78–9) attributes Pompey's humane treatment of pirates and other foreign peoples to a Stoic, specifically Posidonian, belief in the 'brotherhood of man'. Others are more cautious.²⁰⁶ But it is certainly plausible that Pompey was influenced by Posidonius' ideas. Even from a pragmatic perspective, the importance of the Rhodian fleet in the control of piracy,²⁰⁷ along with Posidonius' influence within Rhodes,²⁰⁸ makes it credible that Pompey consulted him in connection with the pirate war.²⁰⁹ Moreover, Strabo (11.1.6) calls Posidonius a friend of Pompey (φίλος Πομπηίου), and the example of Theophanes of Mytilene, though very different from Posidonius, illustrates Pompey's openness to the influence of Greek intellectuals.²¹⁰

Certainly Pompey presented himself as amenable to Posidonius' ideas. Strabo (11.1.6) records that Pompey attended one of Posidonius' lectures in the course of the pirate war and afterwards asked whether Posidonius had any orders for him (εἴ τι προστάττει). Posidonius responded in the words of Homer, 'Always be the best and distinguished above others.'²¹¹ The story derives perhaps from Theophanes, or at any rate from a source favourable to Pompey.²¹² It is striking that, in the 'authorized' version of his campaigns, Pompey chose to present himself as seeking philosophical advice.²¹³ Indeed, Posidonius' exhortation could be regarded as the theme of a work which described the conquest of the east by moral excellence as much as force of arms.

Cicero (*Tusc.* 2.61) preserves another story which Pompey himself was fond of telling. Returning from the east via Athens and Rhodes, Pompey had wished to hear Posidonius lecture, but, on learning that he was indisposed, called at

²⁰⁶ Strasburger 1965, 51; Tröster 2009, 24–5, 30–1; Rawson 1985, 106.

²⁰⁷ See e.g. Berthold 2009, 227–8; de Souza 1999, 48–50; Gabrielsen 1997, ch. 4; Pitassi 2009; 134. *Flor. ep.* 1.41.8 attests that the Rhodians supplied a large number of ships in Pompey's fleet.

²⁰⁸ Posidonius participated in the government of Rhodes (Strab. 14.2.13) and held the prytany (7.5.8), an important magistracy responsible for Rhodes' foreign affairs (see O'Neil 1981; Kidd 1988, 21–2; App. *BC* 4.66). He had also served as ambassador to Rome in 87/6, probably in connection with the Mithridatic war: Plut. *Mar.* 45.7; Kidd 1988, 23. Conceivably Posidonius played a role in securing the vital support of the Rhodian navy in the 60s. It is also possible that he was involved in the renewal of the treaty between Rome and Rhodes in 51, perhaps the year of his death (see Kidd 1988, 4). It may be no coincidence, therefore, that the Rhodians, steadfast allies of Pompey in the 60s, wavered after 51 and deserted the republican cause during the civil war (Plut. *Cat. Min.* 54.1; Cic. *div.* 1.68–9).

²⁰⁹ Strab. 11.1.6 might indicate as much; Posidonius may also have advised Pompey on the situation in Syria. Cf. Rawson 1989, 239 and below in this section.

²¹⁰ e.g. Cic. *Att.* 5.11.3 SB 104 (note *auctoritas*), 9.1.3 SB 167, 9.11.3–4 SB 178; Caes. *BC* 3.18.3; Plut. *Pomp.* 42.4, 76.5–6. Cf. e.g. Yarrow 2006, 47–50 on the spectrum of possible relationships and 54–67 on Theophanes.

²¹¹ Strabo 11.1.6: 'αἰὲν ἀριστεύειν καὶ ὑπείροχον ἔμμεναι ἄλλων.' Since Pompey was at leisure, possibly the meeting should be placed at the end of the war (cf. Plut. *Pomp.* 30.1).

²¹² Kidd 1988, 28; Malitz 1983, 71 n. 99.

²¹³ Cf. Pelling 2007, 252.

his house instead. Pompey offered the philosopher his compliments and expressed his regret that he would be unable to hear him. 'But you can', Posidonius replied, 'and I will not let bodily pain determine that such a great man shall have come to me in vain.'²¹⁴ He then delivered a thorough-going discussion of the topic 'that there is nothing good except what is honourable' (*nihil esse bonum nisi quod esset honestum*), with occasional interruptions to proclaim, 'You're achieving nothing, pain! However troublesome you are, I will never concede that you are an evil.'²¹⁵

The story shows Pompey's eagerness to advertise his connection with the famous Stoic; like the Strabo passage, it also suggests deference to Posidonius' learning. Cicero's language probably echoes the words used by Pompey himself: he greeted the *nobilissimus philosophus* with *honorifica verba*; Posidonius in turn addressed Pompey as *tantus vir* (*Tusc.* 2.61). This was likely also the occasion on which, Pliny says, Pompey would not allow his lictors to knock on the door in the usual fashion, 'and he, to whom east and west had yielded, lowered his *fascēs* to the doorway of learning'.²¹⁶ It is worth noting, too, that Posidonius chose as his theme for this private lecture the very core of Stoic ethics, that virtue is the only good. Yet most scholars have been reluctant to accept what might be regarded as the natural implication of these passages: that Pompey was interested in Stoic philosophy, not simply as an intellectual pursuit, but as a guide to action.

It is true that Pompey's military service from a young age prevented him from progressing to the philosophical studies enjoyed by the likes of Cicero and Brutus (Rawson 1985, 104). However, lack of formal training should not be equated with lack of interest or understanding, certainly of the ethical ideas of Panaetius and Posidonius, who were specifically concerned with 'real-world' virtue, expressed in ordinary language.²¹⁷ As Tröster (2009, 26) puts it, these ideas formed part of the 'mental world' of Roman politicians and generals, and there is no reason why Pompey should be an exception.²¹⁸ The notion that Pompey was somehow intellectually lacking is a Mommsenian fiction. Mommsen's *Römische Geschichte* portrays Pompey as a thoroughly ordinary man, a sergeant rather than a statesman, who, while he understood that he ought to admire Greek intellectuals, remained a soldier through and

²¹⁴ Cic. *Tusc.* 2.61: 'tu vero' inquit 'potes, nec committam, ut dolor corporis efficiat, ut frustra tantus vir ad me venerit.'

²¹⁵ Cic. *Tusc.* 2.61: 'nihil agis, dolor! quamvis sis molestus, numquam te esse confitebor malum.'

²¹⁶ Plin. *NH* 7.112: *fascēs litterarum ianuae summisit is cui se oriens occidensque summiserat*. Pompey seems to have heard Posidonius a second time during the same visit to Rhodes (Plut. *Pomp.* 42.5); Posidonius afterwards published the speech, apparently with reference to the fact that it was delivered before Pompey.

²¹⁷ i.e. appropriate actions for 'progressors' towards virtue rather than the perfect reason of the sage: see e.g. Cic. *off.* 3.13–17; Dyck 1996, 17–18; Kidd 1988, 22; Brunt 2013, 208–9.

²¹⁸ Cf. Griffin 1989, 36; Meier 1980, 319, n. 2.

through.²¹⁹ Mommsen's Pompey appears as incapable of intellectual engagement as of effective leadership. As such he is the perfect foil to Mommsen's Caesar—the consummate statesman, a born leader, 'der ganze und vollständige Mann'.²²⁰

Mommsen's assessment is unjustified and unsubstantiated but, like his equally insidious portrait of Cato as Don Quixote (1889, 166–7), nonetheless has been influential.²²¹ Gelzer (1968, 151) pronounces Pompey a competent organizer but with 'no talent at all for creative statesmanship'. Even Anderson (1963, ch. 4) perpetuates the Mommsenian view while purporting to challenge it. He presents ample evidence for Pompey's intellectual interests and portrays him as a patron of literature and Greek learning, yet Pompey himself remains a 'mere soldier' with a 'mediocre brain', no more engaged in the activities of his clever friends and freedmen than Mommsen's dutiful admirer.²²² It is Pompey's wife Julia, whose intellectual talents are nowhere attested, who emerges as the centre of the 'literary circle'; Caesar's daughter, Anderson claims, 'could not but be clever'.²²³ Rawson, too, collects the evidence for Pompey's intellectual interests yet allows him no more than a propensity for 'somewhat ostentatious intellectual discussions'.²²⁴ In her view, any appearance of intellectual curiosity or patronage is to be explained as slavish imitation of Alexander.²²⁵

It is fairer to see these stories as evidence of genuine interest on Pompey's part, especially as his early life suggests at least some informal exposure to philosophical ideas. Pompey's uncle, Sex. Pompeius, was one of Rome's most famous Stoics. Cicero says that Pompeius 'devoted his remarkable genius to the whole of civil law and to the complete knowledge of geometry and of Stoic matters'.²²⁶ In *De Oratore* (1.67) 'Crassus' calls him a man accomplished in *philosophia*, able to advise on virtue and vice. Sex. Pompeius seems to have had no political career, though during the Social War he participated in

²¹⁹ Mommsen 1889, 11–13. Regarding Pompey's ethical character, however, Mommsen is surprisingly generous (11).

²²⁰ Mommsen 1889, 464–9. The quotation is at 468.

²²¹ Caelius' comment that Pompey was not clever enough to conceal his true wishes (*fam.* 8.1.3 SB 77) has probably also had undue influence.

²²² Anderson 1963, 74–5. Such phrases are at odds with Anderson's own assessment of Pompey as 'a man of high culture' and some Greek learning who surrounded himself with scholars as his friends and advisers and 'used Theophrastus and Posidonius to describe his character and achievements appropriately' (61).

²²³ Anderson 1963, 61, 79–81. Cf. *Plut. Pomp.* 55.1–2 on the various accomplishments of Pompey's fifth wife, Cornelia—including, apparently, some knowledge of philosophy.

²²⁴ Rawson 1985, 105. Her comment on Pompey's attendance at Posidonius' lecture verges on snide (106). Elsewhere she is somewhat more generous (1989, 241).

²²⁵ Rawson 1985, 105–9; cf. 1989, 241.

²²⁶ *Cic. Brut.* 175: *nam Sex. frater eius praestantissimum ingenium contulerat ad summam iuris civilis et ad perfectam geometriae rerumque Stoicarum scientiam*. Cf. *Cic. de or.* 3.78 on Pompeius' Stoicism, *off.* 1.19 on his mathematical expertise, and *dig.* 1.2.2.40 on the *ius civile*.

negotiations between his brother Cn. Pompeius Strabo and the Marsian leader P. Vettius Scato. Cicero, who was present, calls Sextus *doctus vir et sapiens* ('a learned and wise man') and notes the frankness and *aequitas* that characterized the *colloquium*; to Scato he attributes the veritably cosmopolitan sentiment that a *hostis* ought to be a *hospes* (*Phil.* 12.27). Cicero knew Sex. Pompeius and provides quite a lot of information about him.²²⁷ No doubt Pompey knew him well. Oddly, however, any possible influence on his nephew has not been explored, probably because of scholarly reluctance to recognize any genuine intellectual interests or indeed intellectual capacity on Pompey's part.²²⁸

Another possible source of exposure to philosophical material is Pompey's tutor, Aristodemus of Nysa. Aristodemus, a distinguished grammarian (*Strab.* 14.1.48), had family connections to Posidonius: his uncle Menecrates married Posidonius' daughter; one son from that marriage, Jason, took over his grandfather's school in Rhodes, and another son, also Aristodemus, taught philosophy, grammar, and rhetoric at Nysa and Rhodes. This Aristodemus taught Pompey's children as well as, in later life, the (Stoic) geographer Strabo.²²⁹ It seems likely that both Aristodemi were Stoic in outlook, and conceivably Pompey's tutor introduced Stoic material into his education. Pompey's choice of Posidonius' grandson as tutor to his own children, even as a teacher of grammar, is also suggestive.

As an adult, Pompey actively sought to further his philosophical education. As we have seen, he attended lectures in Athens and Rhodes in the 60s. In Sicily in 82 he consulted Q. Valerius—'a man of scholarship and learning' (*φιλόλογος ἀνὴρ καὶ φιλομαθής*)—before putting him to death on Sulla's orders (*Plut. Pomp.* 10.4). Valerius is usually identified with the scholar Q. Valerius Soranus, who seems to have been a Stoic.²³⁰ The story comes from Oppius and as such must be treated with caution,²³¹ but even he leaves us with no doubt as to Pompey's genuine interest in Valerius. Pompey is also said to have visited the Peripatetic philosopher Cratippus and sought his advice not only on how to govern, but how to govern well (*καλῶς ἄρχειν*, *Ael. VH* 7.21). Plutarch (*Pomp.* 75.3–4) describes another meeting between Pompey and Cratippus on Mytilene after Pharsalus, when they discussed divine providence (*πρόνοια*). Interestingly, Pompey seems to have taken a Stoic line.²³²

²²⁷ *Cic. off.* 1.19. Cf. Ward 1970a, 124–5.

²²⁸ Cf. Rawson 1985, 104. If Rawson is correct that Pompey was related to the Lucilii Balbi, there is a case for Stoic influence on both sides of the family. *Cic. de or.* 3.78 lists *duo Balbi* as Stoics, along with Sex. Pompeius.

²²⁹ *Strab.* 14.1.48; *Suda* ι 52. On Strabo, see e.g. *Strab.* 1.2.3, 2.3.8, 16.4.27; Dueck 2000, 8–9, 62–9.

²³⁰ See e.g. Cichorius 1906; Courtney 1993, 65–7; van Nuffelen 2010, 165, 171.

²³¹ As Plutarch points out: *Pomp.* 10.5.

²³² In contrast to Stoic determinism, the Peripatetics held that providence did not concern itself with the lives of men: see e.g. Todd 1976, 213; Sharples 2010, 209. Arguably Pompey, in complaining about his change of fortunes, took a Stoic view of providence, while the view

Pompey's intimate friendship with the polymath Varro is also noteworthy.²³³ In the *Academica*, Cicero has Varro claim to apply philosophy as a guiding principle of life, testimony which deserves to be taken seriously.²³⁴ Varro was not a Stoic, but he was a student of Antiochus' (Stoicized) Academy and scholars have detected significant Stoic elements in his work.²³⁵ Whether he and Pompey ever discussed philosophy, we do not know, but Pompey does seem to have taken an interest in Varro's intellectual endeavours. He was the dedicatee of the reasonably arcane *De Origine Linguae Latinae*,²³⁶ as well as practical works on weather and senate procedure.²³⁷ He also consulted Varro on such matters as whether he ought to inscribe '*consul tertium*' or '*tertio*' when dedicating his theatre,²³⁸ and seems to have encouraged his geographical and scientific enquiries while in the east.²³⁹

Possibly there was an intellectual component to Pompey's relationship with Cicero, too. I have argued that *Pro Lege Manilia*, with its emphasis on moral virtue, was composed in line with Pompey's preferences. Subsequently Cicero offered his services as 'Laelius',²⁴⁰ and there is evidence that Pompey took an interest in Cicero's literary work. If the manuscript reading is retained, a letter to Tiro of April 53 indicates that Pompey visited Cicero at Cumae and wished to hear his writings.²⁴¹ Shackleton Bailey (2001, 226) adopts the old emendation 'Pomponius' (that is, Atticus) on the grounds that the error occurs elsewhere and 'Pompey seems miscast as a casual visitor with an interest in Cicero's literary work'. But others accept the reading and McDermott suggests

assigned to Cratippus would suggest that Pompey was the maker of his own fortune (Plut. *Pomp.* 75.4). It is not clear, however, that this dialogue has any historical foundation.

²³³ See e.g. Cic. *Att.* 3.15.1, 3 SB 60, 3.18.1 SB 63, 5.11.3 SB 104 and Anderson 1963, 44–7. Varro emphasized the connection in his writings, including three books *De Pompeio* (Hieron. *ep.* 33.2; cf. Cornell 2013, 1.419; Tatum 2011, 181–2).

²³⁴ Cic. *acad.* 1.7; Griffin 1989, 11. Cicero made the same claim for himself and Cato (*fam.* 15.4.16 SB 110).

²³⁵ Varro and Antiochus: Cic. *acad.* 1.12; *Att.* 13.16.1 SB 323; Blank 2012. Stoic elements: e.g. Sigsbef 1976; van Nuffelen 2010; van Rooij 1990.

²³⁶ Lyd. *mag.* 1.5. Hieron. *ep.* 33.2 attests three volumes, of which Prisc. *GL* 2.30K preserves a fragment.

²³⁷ *Itin. Alex.* 6; Gell. 14.7.1–2.

²³⁸ Gell. 10.1.7; cf. 14.7.1–2. Cicero resolved the conundrum by advising Pompey to write '*tert*'.

²³⁹ See e.g. Plin. *NH* 6.52 on potable water obtained from the Caspian Sea and the trade route to India. Varro may have helped to shape the historical tradition on Pompey's campaigns.

²⁴⁰ Cic. *fam.* 5.7.3 SB 3. Here, too, there are possible Stoic overtones. Both Scipio and C. Laelius were friends of Panaetius and influenced by his teachings (see e.g. Cic. *Mur.* 66; *rep.* 1.34; *off.* 1.90; Plut. *mor.* 777a), whether or not they would have described themselves as Stoics (cf. Cic. *Brut.* 82, 118 with Astin 1967, 298–9). For Pompey's possible self-identification with Scipio, see n. 19, above.

²⁴¹ Cic. *fam.* 16.10.2 SB 43: *Pompeius erat apud me cum haec scribebam, hilare et libenter. ei cupienti audire nostra dixi sine te omnia mea muta esse.* ('Pompey is staying with me as I write this, cheerful and enjoying himself. He wanted to hear my work but I said, without you, everything of mine keeps silent.')

that Pompey may have been particularly interested in hearing *De Republica*, which Cicero was writing at the time.²⁴² That is plausible, whether or not Cicero's *rector rei publicae* was intended to evoke Pompey.²⁴³ Another letter, of May 51, speaks of 'dialogues with Pompey on the republic' (*cum Pompeio διαλόγους de re publica*, Att. 5.5.2 SB 98). Against this background, it is worth noting that in *Pro Balbo*—a speech delivered in Pompey's presence—Cicero portrays Pompey as a Stoic wise man who does everything well because of his perfect virtue (*Balb.* 2–3).

None of this proves that Pompey was particularly familiar with Stoic philosophy, but his interest in Stoic ideas deserves to be taken seriously, especially in light of the many points of contact between his attitude to empire and the Stoic thinking he was exposed to. It seems clear that Pompey wanted to be associated with Posidonius and wanted his actions to be judged and approved in accordance with a Posidonian model. Posidonius' advice and Posidonius' approval bookend the history of Pompey's campaigns, and I suggest this may have been a feature of the 'authorized' version produced by Pompey's friends.²⁴⁴ Certainly ethical language and humane solutions are a dominant theme in the surviving sources, while the anecdote preserved by Cicero suggests that Pompey himself made similar claims in ordinary conversation.²⁴⁵ Such associations would have enhanced Pompey's reputation and might also have lent weight to his reform agenda.²⁴⁶ But Pompey can also be seen to have acted in accordance with Stoic, specifically Posidonian, ideas.²⁴⁷

Pompey's settlement of the pirates, in particular, looks like a consciously Posidonian solution. If the tradition found in Plutarch does indeed derive from Posidonius, it would appear that Posidonius himself ascribed philosophical reasoning to Pompey.²⁴⁸ It is worth noting, too, that Plutarch mentions the pirate war in his essay 'That a philosopher ought to converse especially

²⁴² McDermott 1972, 260–1; cf. e.g. Tyrrell and Purser 1933, 332; Johanneman 1935, 82–3.

²⁴³ Most scholars now hold that Cicero was thinking of a class of good statesman (e.g. Heinze 1924; Powell 1994; Zetzel 1996, 27–8; Dyck 2004, 83–4), but Cicero did hope Pompey would measure up (Att. 8.11.1–2 SB 161 expresses disappointment; cf. Lintott 1999, 224), and, as Zetzel (1996, 28) points out, the figure of the *rector* inevitably calls to mind individuals like Pompey.

²⁴⁴ Pompey's two meetings with Posidonius took place before and after the Mithridatic campaign (Strabo 11.1.6; Cic. *Tusc.* 2.61). As Malitz (1983, 302) notes, the latter meeting implies Posidonius' approval of Pompey's recent actions.

²⁴⁵ Cic. *Tusc.* 2.61. Presumably Pompey wanted to impress Cicero; in view of the marriage alliance Pompey proposed shortly after his return from the east (Plut. *Cat. Min.* 30.2–3; *Pomp.* 44.2), we might wonder whether he also hoped to impress the Stoic Cato.

²⁴⁶ Cicero's eagerness to have Posidonius write the history of his consulship shows there was something to be gained (Cornell 2013, 1.372 n. 16).

²⁴⁷ Cf. Griffin 1989, 22–3 on the difficulty of establishing subjective philosophical influence.

²⁴⁸ Plut. *Pomp.* 28.3 (note *ἐννοήσας*); cf. App. *Mith.* 96; Dio 36.37.5. This would be in keeping with Posidonius' appreciation of philosophically informed statesmen: Plut. *mor.* 777a; Strasburger 1965, 51.

with men in power', though he does not associate it with any philosopher.²⁴⁹ Indeed, in pardoning and rehabilitating the pirates, Pompey showed himself more Stoic than Cicero in *De Officiis*. Cicero there takes the view that there is no duty of good faith towards pirates, not even the basic obligations owed to other opponents.²⁵⁰ The section reads as an exception to the cosmopolitan principles of the beginning of the book (3.21–8, almost certainly from Posidonius),²⁵¹ and one which effectively characterizes pirates as sub-human. Pompey, by contrast, not only pardoned the pirates but seems to have appealed specifically to *fides* in justifying his actions in Crete.²⁵² It is worth reiterating that even Pompey's friends criticized his actions. To this we might add his policy towards Tigranes and his use of blockade tactics. Pompey, it seems, was pursuing a new, arguably somewhat 'un-Roman', model of imperialism, which can perhaps be traced, in part, to his interest in Stoic ideas.

The annexation of Syria can also be understood in terms of the Stoic (perhaps particularly Posidonian) ideal of rule for the benefit of the ruled.²⁵³ Pompey claimed to be acting in Syria's best interests when he refused to recognize Antiochus XIII and instead annexed the region as a Roman province.²⁵⁴ The weakness of the Seleucids and conflict within Syria had left the country open to enemy attack;²⁵⁵ indeed, according to Trogus, the Syrian people had actively sought foreign rule as relief from the continual quarrels of their kings (Just. *ep. Trog.* 40.1). It was only in 69, after Tigranes of Armenia abandoned Syria, that Lucullus instated Antiochus as king, and he had been expelled once already before Pompey's arrival.²⁵⁶ Trogus has Pompey say that he would not give Antiochus the kingdom he had previously yielded to Tigranes, and which he would not know how to protect (*quod tueri nesciat*), lest Syria be molested again by Jews and Arabs.²⁵⁷ Interestingly, Pompey

²⁴⁹ Plut. *mor.* 779a. Plutarch simply states that a carpenter making a rudder would be glad to know that it would steer Themistocles' flagship or that of Pompey conquering the pirates. The point of the essay is that the philosopher, by influencing one statesman, can benefit many people (777a).

²⁵⁰ Cic. *off.* 3.107: *Nam pirata non est ex perduellium numero definitus, sed communis hostis omnium; cum hoc nec fides debet nec ius iurandum esse commune.* ('For a pirate is not defined among the number of legitimate opponents, but is the common enemy of all; with this enemy there is neither any good faith owed nor mutually binding oaths.')

²⁵¹ Dyck 1996, 487, 528–31.

²⁵² App. *Sic.* fr. 6.2; see 'The pirate war', above.

²⁵³ See chapter 3, 'Stoicism and just empire'. Posidonius, at least, seems to have allowed that even forcible conquest is in the interests of peoples incapable of effective self-government, provided they are treated appropriately: see e.g. Strab. 3.3.5 with Capelle 1932, 101–4; Strasburger 1965, 46–9.

²⁵⁴ Just. *ep. Trog.* 40.2.5; Dio 37.7a; App. *Syr.* 49–50; Plut. *Pomp.* 39.2. Parthia was probably another factor in Pompey's decision to annex Syria: Sherwin-White 1984, 225; Shayegan 2011, 329.

²⁵⁵ Just. *ep. Trog.* 39.5.5, 40.2.4; Strab. 14.5.2; Dio 37.7a. Cf. Bellinger 1949.

²⁵⁶ App. *Syr.* 49; Just. *ep. Trog.* 40.2.2; Diod. 40.1a.

²⁵⁷ Just. *ep. Trog.* 40.2.4. Plutarch's statement (*Pomp.* 39.2) that there were no legitimate kings in Syria may represent a garbling of this, or else a Roman response to protest from the former dynasty (Sherwin-White 1984, 212 n. 66). App. *Syr.* 49 is critical of Pompey.

specifies that he would not make Antiochus king even if the Syrians wanted him.²⁵⁸ Trogus' Pompey purports to know Syria's best interests better than the Syrians themselves.²⁵⁹

Trogus' analysis may reflect Posidonian thinking, whether or not Posidonius' own histories extended so far.²⁶⁰ It is widely accepted that Trogus used Posidonius,²⁶¹ and his introduction propounds a basically Posidonian vision of ideal kingship.²⁶² But it is also possible that 'Posidonian' elements here, as in the sources on the pirate war, reflect Posidonian influence on Pompey himself.²⁶³ It is certainly plausible that Pompey consulted Posidonius, a native of Apamea,²⁶⁴ on Syrian affairs. Malitz infers that he at least approved of Pompey's actions in Syria.²⁶⁵ Posidonius was highly critical of Syria's rulers and Syrian luxury,²⁶⁶ and appears to have drawn a direct connection between Seleucid weakness and the rise of piracy.²⁶⁷ He might well have advised that Pompey restore stability to the region by placing it under Roman rule.

In more general terms, too, Pompey's policy in the east accords with Posidonian ethics. In his *comparatio* of Agesilaus and Pompey, Plutarch draws a contrast between Agesilaus' harshness and Pompey's *ἐπιείκεια*:

οἶμαι δὲ καὶ τῇ πρὸς τοὺς πολεμίους ἐπιεικείᾳ διαφέρειν τὸν ἄνδρα τοῦ ἀνδρός. ὁ μὲν γὰρ ἀνδραποδίσασθαι Θήβας καὶ Μεσσήνην ἐξοικίσασθαι βουλόμενος, ἦν μὲν ὁμόκληρον τῆς πατρίδος, ἦν δὲ μητρόπολιν τοῦ γένους, παρ' οὐδέν ἦλθε τὴν Σπάρτην ἀποβαλεῖν· ἀπέβαλε δὲ τὴν ἡγεμονίαν· ὁ δὲ καὶ τῶν πειρατῶν τοῖς μεταβαλλομένοις πόλεις ἔδωκε, καὶ Τιγράνην τὸν Ἀρμενίων βασιλέα γενόμενον ἐφ' ἑαυτῷ θριαμβεῦσαι σύμμαχον ἐποιήσατο, [καὶ] φήσας ἡμέρας μιᾶς αἰῶνα προτιμᾶν. (Plut. *comp. Ag. et Pomp.* 3.2)

²⁵⁸ Just. *ep. Trog.* 40.2.3. Opinion in Syria seems to have been divided; see e.g. App. *Syr.* 49; Diod. 40.1a–b; Dio 37.7a.

²⁵⁹ Cf. Yarrow 2006, 234.

²⁶⁰ Cf. Gray 1964, 200–1.

²⁶¹ See e.g. Malitz 1983, 55–6, 301–2; Lerouge-Cohen 2005, 248–50. Trogus took from Posidonius a dim view of Syria's rulers (compare e.g. Just. *ep. Trog.* 38.10.1–4 and Athen. 4.176b–c = Posidonius fr. 54 E&K).

²⁶² Just. *ep. Trog.* 1.1–3; compare Sen. *ep.* 90.5 = Posidonius fr. 284.5 E&K. Cf. Levene 2010, 301 n. 23.

²⁶³ Bellinger (1949, 100) suggests that Trogus' information may derive from his uncle, who served with Pompey during the Mithridatic war (Just. *ep. Trog.* 43.5.11–12). Cf. Yarrow 2006, 182.

²⁶⁴ Strab. 14.2.13, 16.2.10; Athen. 6.252e.

²⁶⁵ Malitz 1983, 302, noting their friendly meeting immediately following Pompey's organization of Syria (Cic. *Tusc.* 2.61).

²⁶⁶ See Athen. 4.176b–c, 10.439d–e, 12.527e–f, 12.540a–c, 15.692c–d, all expressly attributed to Posidonius. Cf. Malitz 1983, 257–302.

²⁶⁷ Strab. 14.5.2 (see n. 198 for the attribution to Posidonius). According to Posidonius/Strabo, Scipio Aemilianus had already identified Seleucid incompetence as one of the causes of piracy, but Rome failed to act and later was obliged to fight the pirates. Thus both Pompey's pirate command and the annexation of Syria can be seen as a direct response to problems created by Seleucid weakness.

I think that one man also differed from the other in clemency towards enemies. For [Agessilaus], wanting to enslave Thebes and depopulate Messene, one the co-heir of his fatherland, one the mother-city of his clan, came close to losing Sparta, and did lose the hegemony; [Pompey], on the other hand, gave cities to those of the pirates who changed their ways, and when he could have led Tigranes, king of the Armenians, in triumph, made him an ally, saying that he valued all the years to come above a single day.

Not only does Plutarch here associate Pompey's generous treatment of Tigranes with his 'Posidonian' solution to the pirate problem, but the reasoning he ascribes to Pompey is in effect a restatement of Posidonius' thinking on empire: kindness leads to sustainable rule based on the good will of the subjects, whereas harshness results in loss of empire; thus it is in the interests of any ruling power to show *ἐπιείκεια* and *φιλανθρωπία*.²⁶⁸ Interestingly, Plutarch has Pompey apply these principles not only in his treatment of provincials but in his dealings with a foreign king.

We know that Panaetius used Sparta's fate as a warning against tyrannical behaviour and avarice,²⁶⁹ and Posidonius seems to have done the same,²⁷⁰ so it is possible the contrast in Plutarch derives from him. I propose, however, that Pompey's policy of *humanitas* should be seen not merely as the product of Posidonian historiography but rather of Posidonian influence, or at least a close natural affinity that was probably to some extent self-aware. Pompey made much of his clemency towards Tigranes, and the Plutarch passage suggests that he did so in essentially Stoic terms: that mild treatment was in the (long term) interests of the Roman people.²⁷¹ It is true, as Rawson (1985, 106) says, that Pompey is never called a Stoic, although, in view of his Stoic connections, we should not exclude a degree of Stoic sympathy. But he did not have to *be* a Stoic to embrace a Stoic ideal of empire. The example of Cicero

²⁶⁸ See esp. Diod. 34/5.2.33, where Posidonius/Diodorus states as a general principle that 'those in authority should conduct themselves reasonably towards those in a lower state' (τοὺς ἐν ὑπεροχῇ ὄντας ἐπιεικῶς χρῆν προσφέρειν τοῖς ταπεινότεροις), or else face dissent and revolt. The more authority is transformed into cruelty and illegality, he says, the more those subject to it are brutalized; on the other hand, those whom fortune has laid low, if shown the proper kindness (*φιλανθρωπία*), willingly give way to those above them. Strasburger (1965, 48) identifies this idea as the core of Posidonius' view of empire; cf. Momigliano 1975, 25. The same moral emerges from particular narrative episodes: for example, the slave-owner Damophilus, who mistreated his slaves, is killed by the rebels, while his daughter, who treated them kindly, is spared (Diod. 34/5.2.10–14 and 34–7, 34/5.2.39), and the cruelty of Attalus III is said to drive his subjects to hope for revolution (34/5.3). See n. 197 for the identification of this material as Posidonian.

²⁶⁹ Cic. *off.* 2.26, 77. Cicero makes Sparta a warning to Rome (cf. 2.27–9), though it is not clear that Panaetius did so (see Dyck 1996, 400–1). The example was not uniquely Panaetian; cf. Isoc. 8.99–103.

²⁷⁰ A fragment in Athen. 233f–234a notes misfortunes suffered by the Spartans as a result of their love of gold.

²⁷¹ Cf. Cic. *Sest.* 58 and 'The Mithridatic war', above. Note that, if Plut. *comp. Ag. et Pomp.* 3.2 does reflect Pompey's triumphal *contio*, the same speech featured both a Posidonian rationale for sparing Tigranes and a 'cosmopolitan' definition of the *patria* (see 'Pompey's *patria*', below).

shows that a Roman politician could be influenced by Stoic ethics without identifying himself as a Stoic.²⁷² Moreover, Pompey (unlike Posidonius—or Cato and Cicero, for most of their careers) was uniquely placed to apply those ideas in the governance of the Roman empire. The historical tradition on the eastern campaigns suggests that he did so, and it is possible we have a statement to the same effect in Pompey's own words.

Pompey's *patria*

I have already noted Pompey's claim to have made Asia the middle of a *patria* coterminous with the *orbis terrarum* (Plin. *NH* 7.99). This usage is unprecedented, so far as we know; *patria* in this period is restricted to the *res publica* or even the city of Rome.²⁷³ Cicero uses it in this way—'the *urbs*, that is the *patria*'²⁷⁴—and distinguishes *patria* from *Italia* (*Att.* 8.7.2 SB 155). Pliny does use *patria* more broadly: he describes Italy, for instance, as the single *patria* of all peoples (*NH* 3.39). But Pompey's *patria* is more expansive still: it encompasses not only Rome and Italy but the entire Roman empire. Moreover, the passage in question purports to give Pompey's words, in contrast to Pliny's own use of *patria* two chapters earlier with the narrow meaning of *urbs* (7.97). 'Media *patriae*', then, can be regarded as Pompey's own phrase.²⁷⁵ Possibly Pliny found the speech in the *Pompei triumphorum acta*, which he cites elsewhere.²⁷⁶ At any rate it was well known: Cicero paraphrased it in 56 and Quintilian, the *Periochae*, Florus, and Orosius probably all allude to it.²⁷⁷

As Steel (2001, 213) points out, Pompey's statement has important implications for his view of empire and for his audience, the Roman people, as 'proprietors' of an expanded and somehow unified empire. But more remarkable, I suggest, are its implications for the provincials thus admitted as members of the *patria*. *Patria* is an emotive word importing a notion of common parentage and the highest obligations of *pietas* and service:²⁷⁸ it is

²⁷² For example, Cicero, in his governance of Cilicia, sought to apply the broadly Stoic ideal of his *De Republica* and the explicitly Stoic principles of the younger Cato (see chapter 8, 'Cicero in Cilicia'). Cf. Meier 1980, 219 n. 2, who comments that, while Pompey probably knew less philosophy than Caesar, he acted more in accordance with Posidonius' principles.

²⁷³ Cf. Steel 2001, 213. An exception is the use of *patria* in a Stoic context (*Cic. rep.* 1.19). For *patria* as *res publica*, see e.g. *Cic. Sest.* 49; *prov. cons.* 23.

²⁷⁴ *Cic. Att.* 9.6.2 SB 172: *urbem, id est patriam*; also 8.2.2 SB 152.

²⁷⁵ Cf. Malcovati 1955, 362–3.

²⁷⁶ Plin. *NH* 37.12; cf. Girardet 1991, 208.

²⁷⁷ *Cic. prov. cons.* 31; *Quint. inst.* 11.1.36; *Liv. per.* 103; *Flor. ep.* 1.40.31; *Oros.* 6.6.4. Cf. Pina Polo 1989, 295; Tan 2008, 199; van der Blom 2011, 557.

²⁷⁸ Note, for instance, the personification of the *patria* at *Cic. Cat.* 1.18 (cf. *Quint. inst.* 9.2.29–32) and Cicero's numerous references to *caritas* or *amor patriae*. The duty and affection owed to *patria* is of the same character as that owed to parents and blood relations (e.g. *Cic. inv.* 2.66; *off.* 1.57). For *patria* as *parens omnium nostrum*, see e.g. *Cic. Cat.* 1.17; *de or.* 1.196. For

not only glorious but the good man's duty to die for the *patria*.²⁷⁹ At the same time, Pompey's universal fatherland recalls the Stoic cosmopolis—a *communis patria* of all men and gods united by the same standards of justice and natural law.²⁸⁰ By including provincials within the *patria*, then, arguably Pompey is acknowledging that Rome's *socii* are owed the same obligations as citizens and that the statesman's duty to serve applies equally to them. If so, Pompey's universal *patria* is a clearer expression of Stoic cosmopolitanism than anything we have from Cato or Cicero.

Of course, the Stoic cosmopolis was not limited by Roman *imperium*; however, in the adaptation of Stoic ideas to Roman imperialism, cosmopolis, *orbis terrarum*, and *imperium populi Romani* were to some extent assimilated,²⁸¹ and in any case Pompey need not have used Stoic ideas in a systematic or doctrinally valid way. But even loosely Stoic ideas prescribed ethical standards in some respects more demanding than Roman *mores*. In view of other evidence of Stoic elements in Pompey's imperial praxis, the possibility that he took a 'cosmopolitan' view of empire should not be discounted.

CONCLUSIONS

I have argued that, in his eastern campaigns, Pompey promoted and (so far as we can tell) practised a model of imperialism that was close to Stoic moral philosophy, if not actually influenced by it, in its preference for humane solutions and its conception of the *orbis terrarum* as something like a cosmopolis. There is certainly evidence that Pompey recognized and indeed advertised these affinities. The financial exploitation of the east does not negate his ethical achievement in other areas; indeed, Pompey's handling of both public revenues and personal profits was more consistent with principles of good governance than many of his contemporaries'.

Pompey continued to promote this model after his return to Rome in the historical accounts produced by his friends, in his triumph of 61, and in various other contexts. Cicero's defence of L. Cornelius Balbus in 56, for example, reprised the themes of *Pro Lege Manilia*, while also portraying

pietas due to *patria*, e.g. Cic. *Phil.* 13.46; *rep.* 6.16 [20]. Cf. e.g. Wood 1988, 139; Dyck 2004, 512; Dyck 2008, 87, 162; Vasaly 1993, 31–3; Manuwald 2007, 943; Witzmann 2003, 299 n. 33.

²⁷⁹ Cic. *leg.* 2.5. Cf. e.g. *off.* 1.57, *Sest.* 47, *Phil.* 14.31, and (famously) Hor. *carm.* 3.2.13.

²⁸⁰ Cic. *rep.* 1.19. Elsewhere Cicero describes the cosmopolis as an *urbs* or *civitas communis* (e.g. *fin.* 3.64; *nat. deor.* 2.154; *leg.* 1.23). Note also the message of the *Somnium Scipionis*—that the path to heaven is to preserve, aid, or enlarge the *patria* (Cic. *rep.* 6.13 [17]: *patriam conservaverint, adiuverint, auxerint*; cf. 6.26 [30])—where *patria* is perhaps the *communis patria* of 1.19 (see Zetzel 1996, 115). Stoic cosmopolitanism is discussed further in chapter 3.

²⁸¹ Including, Edwards and Woolf (2003, 15) suggest, by Pompey's friend Posidonius.

Pompey as the Stoic wise man.²⁸² Coinage minted by Faustus Sulla the same year celebrated Pompey's victory over the *orbis terrarum*.²⁸³ Above all, Pompey's theatre complex, opened in 55, stood as physical projection of his 'humane conquest' of the east.²⁸⁴ Funded by eastern *manubiae*, it was at once a celebration of eastern conquest and eastern culture;²⁸⁵ a consciously 'ecumenical' conception which, like later Augustan projects (Nicolet 1991, ch. 1), sought to educate the Roman people about the other inhabitants of their much-expanded *patria*.²⁸⁶ Meanwhile Pompey strove in other ways to enforce standards of conduct demonstrated in his own example (see chapter 4). In this, as we shall see in the next chapter, he had much in common with Cato.

²⁸² Note especially the combination of *fortitudo* and *humanitas* at Cic. *Balb.* 13; cf. 2–3, 9–10, 12.

²⁸³ *RRC* 426/4a. The obverse of Hercules is also worth noting: the most obvious associations were with Alexander and Hercules Invictus. Juxtaposed with the *orbis terrarum*, however, the image might also recall Hercules' Stoic significance as world-benefactor (e.g. Cic. *nat. deor.* 2.62; *fin.* 3.66). On Pompey and Hercules, see Santangelo 2007, with further references.

²⁸⁴ Pompey did not show the same *humanitas* to the people and animals killed at the opening of his theatre, however (Cic. *fam.* 7.1.3 SB 24). Cicero's comment that the crowd seemed to attribute to the elephants some fellowship with humankind (*genere humano societatem*) has (perhaps pointedly) Stoic overtones (cf. Sorabji 1993, 127). In fact the Stoics specifically excluded animals from the sphere of human obligations.

²⁸⁵ See e.g. Kuttner 1999 and Monterroso 2008. The complex drew on eastern models and was filled with eastern treasures, art, portraits of Greek writers, etc. It is also significant, as Russell (2016, 178) points out, that Pompey commissioned many new works, rather than simply appropriating everything.

²⁸⁶ In view of Pompey's attitude to empire, it is highly likely that the fourteen nations were depicted not as downcast victims but standing and in national dress, like the captives at the triumph (App. *Mith.* 116)—that is, assimilated rather than defeated: Monterroso 2008, 280–2. Monterroso draws a link between the statue group and Pompey's claim to have made Asia the centre of the *patria*. The theatre complex, Monterroso argues, follows a consciously 'ecumenical' programme, though he does not consider its possible Stoic resonances.

Cato, Stoicism, and the provinces

I suggested in chapter 2 that Pompey pursued a policy in his eastern campaigns that had much in common with Stoic cosmopolitanism, though how far he was actually influenced by Stoic ideas must remain uncertain. In M. Porcius Cato, on the other hand, we have perhaps the clearest example from the Roman republic where philosophical principles had a discernible impact on an individual's attitudes and behaviour—not only in death, but also in life. This chapter outlines relevant Stoic theory before using the evidence of Cicero, Plutarch, and above all Cato's own words to show how Cato's Stoic principles shaped his attitude to empire. I also examine how Cato used his posting to Cyprus in 58–56 to set an example of upright administration, and how Cato's friends, in his absence, turned the spotlight on the moral questions surrounding the restoration of Ptolemy Auletes to the Egyptian throne.

STOICISM AND JUST EMPIRE

Stoicism was well suited to provide an ethics of imperialism. Put briefly, the Stoics maintained that virtue is the only good. The four parts of the good—the 'cardinal virtues' of wisdom, justice, fortitude, and temperance—were of obvious relevance to the governance of empire.¹ Crucially, Stoicism from at least the second century extended the same obligations to foreigners as to citizens,² because it conceived of all human beings as members of a world city

¹ For the 'cardinal virtues' in Stoic thought, see e.g. Cic. *off.* 1 (from Panaetius); L&S 58A, 61C, D, H. Qualities of restraint were particularly important in a world where avarice was the chief evil (cf. Brunt 1990, 320); thus Cic. *off.* 2.77, for example, urges *abstinentia* and *continentia* in the government of both citizens and allies.

² See the passages from *De Finibus* under 'Cato the practising Stoic', below; cf. e.g. L&S 67A, H; Sorabji 1993, 123. Zeno and Chrysippus seem to have limited citizenship to wise men and gods (see e.g. Schofield 1999, ch. 3; Obbink 1999), though recently Vogt (2008, ch. 2) has argued that they too regarded all humans as fellow citizens.

or ‘cosmopolis’ united under natural law.³ In addition, Stoicism imposed a positive obligation on the morally better to govern, and to govern in the interests of the governed.⁴

From these ideas derive what is sometimes called the Stoic ‘justification of empire’—more accurately, a Stoic model of just empire—and the ethical standards it set for a power like Rome. The good man’s duty to govern combines with cosmopolitan thinking to produce a duty to rule on a world scale. Moreover, this duty can be discerned whether or not we accept a Stoic pedigree for the famous defence of empire spoken by ‘Laelius’ in Cicero’s *De Republica*.⁵ Probably ‘Laelius’ argument does incorporate Stoic material,⁶ but I would emphasize that the argument does not depend on an ‘analogy with slavery’, as is widely held.⁷ Rather, the rule of senates, assemblies, and magistrates over *socii* is explicitly likened to *consensual* rule over citizens and contrasted with rule over slaves.⁸ Furthermore, the ‘justification of empire’

³ The clearest exposition of Stoic *οἰκείωσις* and the cosmopolis of humankind is that offered by ‘Cato’ in Cic. *fin.* 3.62–8 (= L&S 57F); cf. Cic. *off.* 3.28 (following Posidonius), where the equal consideration due to foreigners is made strikingly explicit.

⁴ See esp. Sen. *ep.* 90.5: *Illo ergo saeculo quod aureum perhibent penes sapientes fuisse regnum Posidonius iudicat. Hi continebant manus et infirmiores a validioribus tuebantur, suadebant dissuadebantque et utilia atque inutilia monstrabant; horum prudentia ne quid deesset suis providebat, fortitudo pericula arcebat, beneficentia augebat ornabatque subiectos. Officium erat imperare, non regnum.* (‘Therefore, in that age which is called golden, Posidonius declares that sovereignty was in the hands of wise men. They restrained their hands and protected the weaker from the stronger; they persuaded and dissuaded and indicated what was useful and not useful. Their good sense saw to it that their people wanted for nothing, their courage warded off dangers, their kindness enriched and adorned their subjects. To govern was a duty, not a despotism.’) Cf. e.g. Cic. *off.* 1.28–9, 2.41–2, 3.25–8; *fin.* 3.66, 68 (see ‘Cato the practising Stoic’, below).

⁵ ‘Laelius’ speech in Cic. *rep.* 3 is often thought to derive from Panaetius (e.g. Schmekel 1892, 55–63, 228; Capelle 1932; Pohlenz 1949, 206; Erskine 1990, 194–8), a view rejected by Strasburger (1965, 44–5), citing the incompatibility of the Aristotelian defence of slavery (Cic. *rep.* 3.36 [21]) with Stoic equality of mankind, and Ferrary (1988, 367–81). Others, such as Astin (1967, 300–1) and Brunt (2013, app. 5), argue that we should not think of a single source for what is ultimately Cicero’s argument, though Brunt allows the possibility of Panaetian or Posidonian influence.

⁶ ‘Laelius’ discussion of true law is certainly Stoic (*rep.* 3.33 [27]; Erskine 1990, 194; Brunt 2013, 239) and there are circumstantial grounds for suspecting other elements derive from Panaetius: Laelius was a friend of Panaetius and a student of Panaetian Stoicism (e.g. Cic. *Mur.* 66; *rep.* 1.34), ‘Laelius’ mentions Panaetius in the dialogue (*rep.* 1.15, 34), and *Att.* 10.4.4 SB 195 describes *rep.* as taking the Stoic view that only what is *honestum* is *bonum*. Strasburger’s objection is obviated if we accept that Cicero has combined Stoic and non-Stoic material (see previous note).

⁷ The ‘analogy’ is explored most fully by Erskine 1990, ch. 8; cf. e.g. Schmekel 1892, 55–63, 228; Capelle 1932; Brunt 1990, 317. Keyes’ Loeb edition has probably contributed to confusion by neglecting to translate *sociisque* at *rep.* 3.37 [22].

⁸ Cic. *rep.* 3.37 [22] (= Aug. *contr. Iul.* 4.12.61): *Sed et imperandi et serviendi sunt dissimilitudines cognoscendae. Nam ut animus corpori dicitur imperare, dicitur etiam libidini, sed corpori ut rex civibus suis aut parens liberis, libidini autem ut servus dominus, quod eam coerces et frangit, sic regum, sic imperatorum, sic magistratuum, sic patrum, sic populorum imperia civibus sociisque praesunt ut corporibus animus, domini autem servos ita fatigant, ut optima pars animi, id est sapientia, eiusdem animi vitiosas imbecillasque partes, ut libidines, ut iracundias, ut*

in *De Republica* must be read in light of other parts of the work which promote a beneficent attitude to the whole human race.⁹ This view of *cives* and *socii* alike as ‘citizens’ of a universal polity is central to the Stoic model of empire.

Scholars have doubted whether these ideas had much practical significance for Roman politics. As a general rule, philosophy probably provided no more than a vocabulary and a framework for articulating moral questions, though the importance of this should not be underestimated (Griffin 1989, 34–7). Furthermore, the ethical standards imposed by Stoic philosophy overlapped, to a large extent, with other traditions, and with common sense. However, I argued in the last chapter that Pompey’s sometimes ‘un-Roman’ principles can be attributed in part to Stoic influence; Cato presents a more clear-cut instance where specifically Stoic principles had practical application.

CATO THE PRACTISING STOIC

Cato’s self-consciously philosophical suicide at Utica in 46, when he chose to end his own life rather than live under Caesar’s tyranny, guaranteed Cato ‘Uticensis’ (as he was soon dubbed) a place in history and started a fashion for Stoic suicide.¹⁰ Indeed, Cato became more famous for his death than for his life.¹¹ Among his contemporaries, however, Cato was famed for his application of Stoic principles as a way of *living*, particularly in political and provincial affairs.

In *Pro Murena*, Cicero poked fun at Cato’s Stoicism. As Cato recognized (Plut. *Cat. Min.* 21.5) and Cicero later acknowledged (*fin.* 4.74), not all of what

perturbationes ceteras. (‘But different kinds of ruling and serving must be recognized. For as the mind is said to rule over the body it is also said to rule over passion, but the mind rules the body like a king rules his citizens or a parent his children; on the other hand, the mind rules passion like a master his slaves, because it restrains and subdues it. Thus the rule of kings, generals, magistrates, senators, and peoples over citizens and allies is like that of mind over body, but masters wear down their slaves in the same way as the best part of the soul—that is, wisdom—wears down the flawed and feeble parts of the same soul, such as passion, anger, and other disturbances.’) The consensual nature of the rule of mind over body (and thus rule over *socii*) is made clear in a *testimonium* from Augustine (*civ. Dei* 14.23). On this point, see now Schofield (forthcoming), though he does not think ‘Laelius’ argument is Stoic. The argument that ‘slavery’ is beneficial for some men (Aug. *civ. Dei* 19.21: *talibus hominibus sit utilis servitus*) was used, if at all, only of rebellious peoples who would benefit from the *pax Romana* (see chapter 2, n. 253 on Posidonius). But Laelius uses *servire* of citizens as well as allies, and Aug. *civ. Dei* 19.21 may not refer to allies anyway (see Schofield, forthcoming).

⁹ e.g. Cic. *rep.* 1.1–3; cf. Asmis 2005, 412.

¹⁰ Griffin 1986 and 1986a. The classic account of Cato’s death is Plut. *Cat. Min.* 66–72; cf. Rauh 2012, ch. 5 with further references. For the use of the unofficial name ‘Uticensis’ in antiquity, see e.g. Plin. *NH* 7.113.

¹¹ Thus one of very few books published on Cato is Goar’s *The Legend of Cato Uticensis* (1987).

he says can be taken seriously. On the other hand, there is no reason to doubt Cicero's statement that Cato embraced Stoicism 'not for the sake of discussion, like most people, but truly as a way of living'.¹² In fact, Cicero says the same thing in writing to Cato himself: '...very nearly alone we have brought this authentic and ancient philosophy, which is considered by some to be a thing of leisure and idleness, into the forum and public life and almost into the line of battle itself.'¹³ Similarly, in *Paradoxa Stoicorum*, addressed to Cato's nephew Brutus, Cicero writes that Cato, contrary to usual practice, used arguments from philosophy when speaking in the assembly and the courts.¹⁴ Cicero's well-known quip that Cato spoke as if he were living in Plato's republic also refers to Cato's efforts to apply philosophical principles in public life.¹⁵ Comments like this—and, indeed, Cicero's whole strategy in defending Murena—make sense only if Cato's 'Stoicism in practice' was familiar to his audience, long before Cato ended his life at Utica.¹⁶

Plutarch presents the same picture: he records Cato's passion for Stoicism (*Cat. Min.* 4.1) and draws a very Stoic portrait of Cato's political career. Plutarch's evidence must be used with caution, as some of Cato's most overtly 'philosophical' actions look like posthumous embellishment. For example, Plutarch adduces a Stoic rationale for Cato's decision to dispense with shoes and tunic in hot weather—that one should feel ashamed only of what is shameful (6.3)—whereas Cato himself seems to have appealed to Roman tradition.¹⁷ The notorious wife-transfer arrangement between Cato and Q. Hortensius (*Plut. Cat. Min.* 25) was surely driven by considerations of politics and *amicitia* rather than Stoic doctrine; the philosophical argument recorded by Plutarch was just one of many produced by later writers to justify Cato's actions.¹⁸ Figures like Thræsea Paetus—Cato's Stoic biographer and emulator in life and death—no doubt enhanced the Stoic motifs.¹⁹ Plutarch,

¹² Cic. *Mur.* 62: *neque disputandi causa, ut magna pars, sed ita vivendi.*

¹³ Cic. *fam.* 15.4.16 SB 110: '...soli prope modum nos philosophiam veram illam et antiquam, quae quibusdam oti esse ac desidia videtur, in forum atque in rem publicam atque in ipsam aciem paene deduximus. The passage is part of Cicero's appeal for Cato's support in his request for a *supplicatio* (see 'Cato in his own words', below). Cicero is not identifying himself as a Stoic (though in fact he considered the difference between the Stoa and the Academy essentially one of terminology: *fin.* 4); the point is the application of philosophy in public life. Cf. Baraz 2012, 74–5.

¹⁴ Cic. *par. Sto.* pr.1. Cicero claims that Cato, unlike most Stoics, succeeded in making his oratory effective. Cf. McDermott 1970; Stem 2005; van der Blom 2012.

¹⁵ Cic. *Att.* 2.1.8 SB 21. Note that Cic. *de or.* 1.230 makes the same remark about Rutilius Rufus, another famous Stoic and a relative of Cato.

¹⁶ Cf. Stem 1999, e.g. 80, 205; Craig 1986. Indeed, it was Cato's Stoic life that was seen to make suicide appropriate in his case, and not in others': Cic. *off.* 1.112; Rauh 2012, 266, 272–3.

¹⁷ Cato cited as examples the tunicless statues of Romulus and Camillus: Asc. 29C.

¹⁸ Cf. Griffin 1989, 24–5; Cornell 2013, 3.467.

¹⁹ Thræsea was a principal source for Plutarch: see Geiger 1979.

too, had his reasons for urging philosophical motivations.²⁰ Discernment, therefore, is necessary; on the other hand, there is no reason to dismiss Cato's 'Stoicism in practice' as posthumous invention, as some scholars have done.²¹ Significantly, Plutarch's Cato acts like a Stoic even where the philosophical connection is not made explicit,²² and the most important elements are supported, as we shall see, by contemporary evidence and by Cato's own words.

Plutarch ascribes to Cato distinctly Stoic views on the duties of a statesman:

οὔτε γὰρ δόξης χάριν οὔτε πλεονεξίας οὔτ' αὐτομάτως καὶ κατὰ τύχην ὥσπερ ἕτεροὶ
τινες ἐμπεσὼν εἰς τὸ πράττειν τὰ τῆς πόλεως, ἀλλ' ὡς ἴδιον ἔργον ἀνδρὸς ἀγαθοῦ
τὴν πολιτείαν ἐλόμενος, μᾶλλον ᾤετο δεῖν προσέχειν τοῖς κοινοῖς ἢ τῷ κηρίῳ τὴν
μέλιτταν· ὅς γε καὶ τὰ τῶν ἐπαρχιῶν πράγματα καὶ δόγματα καὶ κρίσεις [καὶ
πράξεις] τὰς μεγίστας ἔργον πεποιήτο διὰ τῶν ἐκασταχόθι ξένων καὶ φίλων
πέμπεσθαι πρὸς αὐτόν. (Plut. Cat. Min. 19.2)

Cato fell into the management of the city's affairs neither for the sake of reputation, nor of material gain, nor accidentally and by chance, like some others, but took up the business of government as the proper function of a good man; he strongly believed that one ought to give more attention to the common interests than the bee to its honeycomb. And so he took trouble to have the affairs of the provinces, decrees and judgements, and the most important transactions sent to him by his guest-friends and connections on each side.

In other words, Cato considered it the good man's *duty* to govern, and that entailed placing the common good before his own.²³ Most interesting is Plutarch's glide from the common interests (τά κοινά) to the affairs of the provinces (τὰ τῶν ἐπαρχιῶν πράγματα). This indicates that the duty to govern extends to Rome's allies as well as Rome's citizens. The same idea is implicit elsewhere in the *Life*. For example, Cato considered a 'study tour' of the provinces just as important in preparing for a political career as a study of the quaestorship.²⁴ He also applied the same standards of probity and diligence in service abroad as in domestic affairs, so that Cato's administration of Cyprus (discussed later in this chapter) conformed to the model established in his quaestorship.²⁵

²⁰ For instance, Plutarch seems to have intended the *Cato* as a warning against overly rigid adherence to philosophical principles: see e.g. Swain 1990, esp. 200; Duff 1999, 156–8.

²¹ e.g. Russo 1974, 96; Syme 1939a, 57.

²² Cf. Afzelius (1941, 109–16) who argues that, while we cannot rely on Plutarch's report of Cato's words or motivations, his actions confirm the influence of Stoicism on all aspects of his life.

²³ Cf. Plut. *mor.* 811a–b; Gelzer 1963, 263.

²⁴ Plut. *Cat. Min.* 12.2, 16.1. Cato's preparation also accords with Cicero/Panaetius' prescription of *praeparatio diligens* (Cic. *off.* 1.73).

²⁵ Cf. Steel 2001, 202–4. Swain (1990, 198) notes that the combination of high principle and attention to detail emphasized in Plutarch's account of Cato's quaestorship is characteristically Stoic. On the Cyprus mission, see 'Cato in Cyprus', below.

Cato's views (as presented by Plutarch) correspond to the Stoic doctrine that it is the good man's duty to govern not only in the interests of the state, but of the entire human race. One of the clearest expositions of these ideas is the speech assigned to 'Cato' himself in book 3 of Cicero's *De Finibus*. 'Cato' begins by defining the world as a city of men and gods:

mundum autem censent regi numine deorum, eumque esse quasi communem urbem et civitatem hominum et deorum et unum quemque nostrum eius mundi esse partem; ex quo illud natura consequi, ut communem utilitatem nostrae anteponamus. ut enim leges omnium salutem singulorum salutem anteponunt, sic vir bonus et sapiens et legibus parens et civilis officii non ignarus utilitati omnium plus quam unius alicuius aut suae consulit. (Cic. *fin.* 3.64)

[The Stoics], however, hold that the universe is governed by the will of the gods, and that it is, as it were, a common city or state of men and gods, and that each one of us is part of this universe, from which it naturally follows that we place the common advantage before our own. For, as the laws place the safety of all before the safety of individuals, so a good, wise, and law-abiding man, not ignorant of his civic duty, consults the interest of all more than that of any individual or his own.

From this arises the good man's duty to engage in public life: 'But since we see that man is constituted by nature to protect and preserve other men', says 'Cato', 'it is in accordance with this natural disposition that the wise man should want to conduct and administer public affairs.'²⁶ Crucially, this calling to aid and protect applies not only to one's fellow citizens, but to the whole *genus hominum*: 'Those who are strong in resources and are able to do this, as we hear about Hercules and Liber, are naturally inspired to serve the human race.'²⁷ 'Cato' goes on to emphasize that all humankind is, by its nature, united under the same natural law (*fin.* 3.67). While the implications of these ideas for Romans as world rulers are not made explicit in *De Finibus*, the ramifications of an *urbs* or *civitas hominum* are clear enough, and the use of pan-Mediterranean exemplars Hercules and Liber underscores the universal scope of the good man's duty.²⁸ In other words, there should be no distinction between Rome and the human race.²⁹ In Stoic thought, the obligation to serve and protect extends to both and all are governed by the same *ius*.

²⁶ Cic. *fin.* 3.68: *Cum autem ad tuendos conservandosque homines hominem natum esse videamus, consentaneum est huic naturae, ut sapiens velit gerere et administrare rem publicam.* Cf. e.g. L&S 66B, 67W.

²⁷ Cic. *fin.* 3.66: *ii qui valent opibus atque id facere possunt, ut de Hercule et de Libero accipimus, ad servandum genus hominum natura incitantur.*

²⁸ Cf. Cic. *off.* 3.25–8; Dyck 1996, 529.

²⁹ The Stoics acknowledged that the degree of instinctive concern one feels for other human beings varies with closeness of relationship; however, they also held that one should aim to 'shorten the distance' (*ἐπιτεμνόμεθα τὸ μήκος*, L&S 57G6), so that one treats 'the most distant Mysian' ([τὸν ἐ]σχατον Μυσῶν, L&S 57H3) no differently from oneself.

These are not the historical Cato's words, but there is reason to think they reflect his views. Cicero generally preferred plausible speakers for his dialogues, and we would expect him to take some care in depicting a contemporary figure like Cato, especially in a work addressed to Brutus.³⁰ Brutus had enjoyed a close relationship with his uncle Cato, and married Cato's daughter Porcia around the time that Cicero composed *De Finibus*.³¹ Admittedly both Cicero and Brutus were engaged in writing the 'Cato legend', but their methods and choices are nonetheless of interest.³² Brutus, significantly, was an accomplished philosopher;³³ though not a Stoic, Plutarch says there was virtually no Greek philosopher with whom Brutus was unacquainted (*Brut.* 2.2), and he doubtless will have been familiar with Cato's particular philosophical views. Indeed, Cicero specifically asks Brutus to adjudicate the debate between himself and Brutus' uncle *diligenter* (*fin.* 3.6). It is a reasonable inference that Cicero took equal care to give an accurate depiction of Cato's Stoicism.

Evidence may be found in several places in the dialogue where 'Cato' indicates his disagreement with more mainstream Stoic views. At 3.57, for example, 'Cato' says that contemporary Stoicism considered εὐδοξία (good fame) worthy of pursuit in its own right. He, however, strongly agrees (*vehementer assentior*) with the opinion of older Stoics, Chrysippus and Diogenes, that, aside from any practical advantage it offered, it was not worth lifting a finger for.³⁴ This passage is not explained simply by divergence between the early Stoic sources of *De Finibus* book 3 and the 'middle', or Panaetian, Stoicism common in the first century (and praised by Cicero in book 4).³⁵ 'Cato' shows himself aware of later developments, but prefers the earlier view. *Vehementer assentior*, moreover, signals a personal attitude, not a straightforward description of doctrinal difference. Again, in book 4, Cicero indicates that Cato's views were closer to those of the early Stoics than the milder teachings of Panaetius—a comparison that is not exactly flattering to

³⁰ Plausible speakers: Cic. *Att.* 13.16.1–2 SB 323; this passage also attests that Cicero considered Cato a particularly appropriate spokesperson for Stoic views. Dedication to Brutus: Cic. *fin.* 1.1, 1.8, 3.6.

³¹ On Brutus and Cato, see e.g. Plut. *Brut.* 2.1. Brutus' mother was Cato's half-sister Servilia. The marriage to Porcia took place in 45; Cic. *Att.* 13.9.2 SB 317, 13.22.4 SB 329; Plut. *Brut.* 13.3.

³² Both Cicero and Brutus produced works on Cato, Cicero at Brutus' request (see e.g. Cic. *orat.* 35; *Att.* 13.46.2 SB 338).

³³ Cic. *fin.* 1.8, 3.6; Plut. *Brut.* 2.2–3. Brutus was an adherent of the Old Academy of Antiochus (Cic. *fin.* 5.8; Plut. *Brut.* 2.3). See Sedley 1997, 43–4 for refutation of the idea that Brutus was a Stoic.

³⁴ Cf. Cic. *fin.* 3.68, which might suggest that Cato was among those Stoics more accepting of Cynic ways; see Billerbeck 1996, 206.

³⁵ As Brunt (2013, 443–4) observes, Cic. *fin.* 3 seems free of the influence of the 'middle Stoa' (i.e. Panaetius and his followers), who were regarded as having made certain Stoic doctrines softer and more palatable (see next note). The latest Stoic cited is Diogenes, though 3.22 reflects the thinking of Antipater of Tarsus (Long 1967, 77–80).

Cato.³⁶ The most obvious reason for the inclusion of such particulars in a work like *De Finibus* is that they reflect the historical Cato's views.³⁷

In addition, Cicero introduces personal touches into the dialogue which likewise suggest care taken to give a convincing portrait of his speaker.³⁸ The dialogue is equipped with a dramatic date and a plausible setting: the library of the young Lucullus, for whom Cato and Cicero shared responsibility, in 52.³⁹ In 'Cato's' speech, the use of Crassus and Sulla alongside Tarquin and Croesus as negative *exempla* looks like a nod to Cato's actual views.⁴⁰ Cicero could easily have chosen more remote examples; instead, the conclusion of the book highlights two recent figures whom Cato had very publicly criticized. And, in his reply, Cicero refers directly to his earlier lampoon of Cato's Stoicism:

Omnia peccata paria dicitis. non ego tecum iam ita iocabor, ut isdem his de rebus, cum L. Murenam te accusante defenderem: apud imperitos tum illa dicta sunt, aliquid etiam coronae datum; nunc agendum est subtilius. (Cic. *fin.* 4.74)

You [Stoics] say that all transgressions are equal. I will not now joke with you again as I did on these same matters when I was defending L. Murena and you were prosecuting. I said those things then before ignorant men, and indeed I played a little to the crowd; now the matter must be treated more subtly.

In *Pro Murena*, Cicero had reduced Cato's Stoicism to a series of extreme propositions: that strangling one's father is no worse a crime than the needless killing of a chicken (61), and more in that vein. In *De Finibus*, Cicero offers a more accurate depiction of Stoic doctrine and, I suggest, of Cato's own views. Cicero's audience—notionally Cato, in fact Brutus—was well qualified to judge his performance. In short, when 'Cato' in *De Finibus* speaks of human

³⁶ Cic. *fin.* 4.79: *quam illorum tristitiam atque asperitatem fugiens Panaetius nec acerbiter sententiarum nec disserendi spinas probavit fuitque in altero genere mitior, in altero illustrior semperque habuit in ore Platonem, Aristotelem, Xenocratem, Theophrastum, Dicaearchum, ut ipsius scripta declarant. quos quidem tibi studiose et diligenter tractandos magnopere censeo.* ('Shunning the gloominess and harshness of those men [other Stoics], Panaetius approved neither the sharpness of their doctrines nor the perplexities of their arguments; in the one regard he was mellow, in the other more clear, and he had Plato, Aristotle, Xenocrates, Theophrastus, and Dicaearchus always in his mouth, as his writings make plain. And indeed I strongly advise that you [Cato] should investigate these authors studiously and attentively.') Cic. *Mur.* 66 makes the same point.

³⁷ For present purposes, it is not necessary to consider in detail the relationship between Cato's views and other Stoics'. The ideas of critical importance here—the society of humankind and the good man's duty to all—were common to Cato and Panaetius.

³⁸ Cf. Stem 1999, ch. 4 on the characterization of Cato in *De Finibus*.

³⁹ *Nova lex* in Cic. *fin.* 4.1, a reference to Pompey's legislation as sole consul (Asc. 39C), implies a date in 52. On Cato and Cicero's joint responsibility for young Lucullus, see Cic. *fin.* 3.8–9; Varr. *RR* 3.2.17.

⁴⁰ Cic. *fin.* 3.75. On Crassus, see chapter 6, 'Disowning Crassus' campaign'. For Cato's view of Sulla, see Plut. *Cat. Min.* 3.2–5, 17.4–5; the point is clear whether or not we credit the childhood story.

society and the duty to serve mankind, it is reasonable to surmise that the living Cato also held these beliefs.

CATO IN HIS OWN WORDS

The best evidence for Cato's Stoic view of empire comes from the correspondence between him and Cicero in 51–50. Cicero, then governor of Cilicia, wrote to Cato seeking his support for a *supplicatio* in respect of some fairly minor victories which, he claimed, had been pivotal in staving off a Parthian invasion and any side-switching by Rome's allies.⁴¹ Cicero's long letter to Cato differs markedly from the straightforward request for support he sent to other correspondents.⁴² The careful and elaborate manner in which Cicero frames his appeal to Cato both sheds light on Cato's Stoic approach to provincial governance and shows that Cato's views were familiar to his contemporaries.

First, while the *supplicatio* he sought was for military victories, Cicero expected Cato to support it, if at all, on moral grounds:

Summa tua auctoritas fecit meumque perpetuum de tua singulari virtute iudicium ut magni mea interesse putarem et res eas quas gessissem tibi notas esse et non ignorari a te qua aequitate et continentia tuerer socios provinciamque administrarem. iis enim a te cognitis arbitrabar facilius me tibi quae vellem probaturum. (Cic. *fam.* 15.4.1 SB 110)⁴³

Your supreme *auctoritas* and my abiding opinion of your unparalleled virtue make me feel that it is of great importance to me both that my achievements should be known to you and that the equity and restraint with which I have protected our allies and administered my province should not go unrecognized by you. When you are acquainted with these things, I believe I will more easily gain your approval for what I desire.

His *aequitas* and *continentia*, Cicero claims, have reaped results that could not have been achieved by force of arms:

... me exercitu imbecillo contra metum maximi belli firmissimum praesidium habuisse aequitatem et continentiam. his ego subsidiis ea sum consecutus quae

⁴¹ Cic. *fam.* 15.4 SB 110. Cicero's activities in Cilicia are discussed in chapter 6.

⁴² Letters to C. Marcellus (*fam.* 15.10 SB 108) and L. Paullus (15.13 SB 109) are extant. Apparently there were only two senators to whom Cicero did not write (Cic. *Att.* 7.1.8 SB 124). Unfortunately the official request to the senate (mentioned at *fam.* 15.4.16 SB 110) has not survived.

⁴³ Cf. §14, where Cicero says that he has observed Cato's tendency, in such matters, to pay more regard to a commander's *mores, instituta*, and way of life than to his *res gestae*, and §11, where he suggests that Cato was more willing to support *supplicationes* for civic achievements than for military victories; indeed, Cato had voted for such a *supplicatio* in 63.

nullis legionibus consequi potuissem, ut <ex> alienissimis sociis amicissimos, ex infidelissimis firmissimos redderem animosque novarum rerum expectatione suspensos ad veteris imperi benevolentiam traducerem. (§14)⁴⁴

... with a weak army, I regarded equity and restraint as my strongest defence against the threat of a great war. With these supports, I obtained results which no legions would have been able to obtain: I rendered the most alienated allies most friendly, the most faithless most steadfast, and brought back minds wavering in expectation of a new state of affairs to a spirit of good will towards the old ruling power.

When Cicero does relate his military endeavours, he does so in a manner calculated to appeal to Cato. He is careful to emphasize that his campaigns were necessary (and thus just) wars (§§8, 10), and he points out that the siege of Pindenissum was accomplished 'without any trouble or expense on the part of the allies',⁴⁵ a fact he does not trouble himself to report to Atticus (Att. 5.20.5 SB 113). On the other hand, the letter to Cato omits any mention of the sale of captives and the plundering of the town, though he does detail its destruction.⁴⁶ It is also worth noting Cicero's choice of vocabulary in writing to Cato, albeit in a letter earlier than the one seeking support for a *supplicatio*. On 3 September 51, Cicero wrote to Cato with intelligence received from the king of Commagene and said that he hoped to hold his province by *mansuetudo* and *continentia*.⁴⁷ Cicero's official despatch to the senate and magistrates, written about two weeks later, speaks of *mansuetudo* and *integritas*.⁴⁸ We know from a letter to Atticus that Cicero did not like the term *continentia*, which suggested virtuous resistance in the face of temptation; he preferred *integritas*, which implied no inappropriate impulses, and he uses it frequently in his Cilician correspondence.⁴⁹ The choice of *continentia* was likely designed to appeal to Cato: it was a more Stoic term, associated with Cato and used by Cato in his letter to Cicero (*fam.* 15.5.2 SB 111).⁵⁰ Tellingly, however, a later

⁴⁴ Cf. Cic. *fam.* 15.3.2 SB 103. The military situation in the east is considered in chapter 6.

⁴⁵ Cic. *fam.* 15.4.10 SB 110: *sine ulla molestia sumptuue sociorum*.

⁴⁶ Cic. *fam.* 15.4.10 SB 110; compare Att. 5.20.5 SB 113.

⁴⁷ Cic. *fam.* 15.3.2 SB 103. This and the corresponding letter to the senate are discussed in chapter 6, 'The Parthian threat, 51–50'.

⁴⁸ Cic. *fam.* 15.1.3 SB 104, 18 September 51.

⁴⁹ Cic. Att. 5.20.6 SB 113: *nec tamen ego hanc continentiam appello, quae virtus voluptati resistere videtur; ego in vita mea nulla umquam voluptate tanta sum adfectus quanta adficio hac integritate, nec me tam fama, quae summa est, quam res ipsa delectat*. ('However I do not call this *continentia*, a virtue which is seen in resisting pleasure; at no time in my life was I furnished with such pleasure as I have been granted by this *integritas*—not so much the renown, which is the highest, but the thing itself delights me.') Further references in chapter 8, n. 14.

⁵⁰ The Stoics counted *continentia* (ἐγκράτεια) as a subordinate virtue under the head of temperance (see e.g. Cic. *off.* 3.116–17; Sen. *ep.* 115.3; L&S 61H8); as such, *continentia* is reasonably common in *De Officiis*, whereas *integritas* is not found at all. Both Cic. *dom.* 23 and Val. Max. 4.3.2 speak of the *continentia* Cato displayed in his Cyprus mission. I suggest that this reflects the terms in which Cato himself represented his achievement (see 'The Cyprus mission as *exemplum*', below).

letter to Atticus ‘translates’ Cato’s words into Cicero’s preferred idiom, so *continentia* becomes once again *integritas*.⁵¹

Finally, in his request for a *supplicatio*, Cicero makes an appeal to philosophy. He and Cato, he says, have brought philosophy into public life and virtually onto the battlefield, and this *societas* ‘pleads with you on behalf of my renown’.⁵² Taken in the light of the rest of the letter, this is not just an argument that Cato should support Cicero’s request because they share a common interest; rather, Cicero is suggesting that Cato should approve his conduct in Cilicia by the ethical standards of philosophy.⁵³

Cato’s verdict was that Cicero had measured up to those standards. His reply is full of praise for Cicero’s *innocentia* (three times), his *diligentia* (twice), his *continentia*, *mansuetudo*, *consilium*, *ratio*, and *severitas* (*fam.* 15.5 SB 111). In Cato’s opinion, however, the appropriate recognition was not a *supplicatio*, which rendered thanks to the gods, but a speech in the senate honouring Cicero’s achievements and the moral qualities that had secured them.⁵⁴

Cato’s letter has received surprisingly little attention in modern scholarship, given that it is the sole surviving piece of writing by this important figure of late republican history.⁵⁵ Mostly it is his perceived rudeness or hypocrisy that attracts comment.⁵⁶ Those who do consider the letter as evidence for Cato’s (Stoic) views on provincial governance do so briefly. Gelzer draws an important connection between the concern for the allies Cato expresses in his letter and Stoic recognition of the community of all humankind, but unfortunately does not explore the idea further.⁵⁷ Griffin regards Cato’s letter as evidence for a Stoic view of empire that rated moral virtue above military achievement, but

⁵¹ Cato (*fam.* 15.5 SB 111) praises Cicero’s *innocentia*, *diligentia*, *continentia*, *mansuetudo*, *consilium*, *ratio*, and *severitas*. Cicero (*Att.* 7.2.7 SB 125), apparently describing Cato’s speech in the senate, mentions *integritas*, *iustitia*, *clementia*, and *fides*. It is hard to reconcile the two lists of virtues. Cicero’s friends had sent him a copy of Cato’s speech (*Cic. fam.* 15.6.1 SB 112) and it is possible that Cicero is quoting from it. But, if Cato’s letter reflects the terms of his *sententia*, as he implies, then *integritas* is Cicero’s paraphrase. This is the most likely solution, since Cicero wrote to Atticus some months after receiving Cato’s speech, probably without the text in front of him: Cicero had received the speech by July 50 (*fam.* 15.6.1 SB 112); the letter to Atticus was written c.25 November. Cf. *Att.* 7.2.5 SB 125, where Cicero reports that Pompey praised his *integritas*.

⁵² *Cic. fam.* 15.4.16 SB 110: *tecum agit de mea laude*. Cicero adds that Cato could not rightly say no.

⁵³ Cf. Stem 1999, 40.

⁵⁴ Cato *fam.* 15.5.1–2 SB 111; see chapter 6, ‘Bibulus’ *supplicatio*’.

⁵⁵ A surprising example is Wussow (2004) who, in a thesis explicitly concerned with Cato’s Stoicism, mentions Cato’s letter only in a footnote on his relationship with Cicero (64 n. 85). Stem’s discussion (1999, 43–50) has little to say on Cato’s Stoicism and does not consider his views on provincial governance.

⁵⁶ Examples in Wistrand 1979, 24.

⁵⁷ Gelzer 1963, 265, followed by Dragstedt 1969, 84 and (implicitly) Meier 1980, 276 n. 60. Cf. Pantzerhielm Thomas 1922, 11–12, 14.

her focus is Seneca.⁵⁸ Fehrle relates the letter to Cato's policy of provincial governance, but not to his Stoicism.⁵⁹ Finally, Shackleton Bailey's commentary is perfunctory; he does not mention Stoicism, and doubts whether Cato's 'humbug' reflects any genuine principles at all (1977, 2.449). Closer study is in order.

It is worth quoting Cato's letter in full before highlighting those points which reflect a Stoic attitude to empire.

M. CATO S. D. M. CICERONI IMP.

(1) Quod et res publica me et nostra amicitia hortatur libenter facio, ut tuam virtutem, innocentiam, diligentiam, cognitam in maximis rebus domi togati, armati foris pari industria administrare gaudeam. itaque, quod pro meo iudicio facere potui, ut innocentia consilioque tuo defensam provinciam, servatum Ariobarzanis cum ipso rege regnum, sociorum revocatam ad studium imperi nostri voluntatem sententia mea et decreto laudarem, feci.

(2) Supplicationem decretam, si tu, qua in re nihil fortuito sed summa tua ratione et continentia rei publicae provisum est, dis immortalibus gratulari nos quam tibi referre acceptum mavis, gaudeo. quod si triumphi praerogativam putas supplicationem et idcirco casu<m> potius quam te laudari mavis, neque supplicationem sequitur semper triumphus et triumpho multo clarius est senatum iudicare potius mansuetudine et innocentia imperatoris provinciam quam vi militum aut benignitate deorum retentam atque conservatam esse; quod ego mea sententia censebam.

(3) Atque haec ego idcirco ad te contra consuetudinem meam pluribus scripsi ut, quod maxime volo, existimes me laborare ut tibi persuadeam me et voluisse de tua maiestate quod amplissimum sim arbitratus et quod tu maluisti factum esse gaudere. Vale et nos dilige et instituto itinere severitatem diligentiamque sociis et rei publicae praesta. (Cato *fam.* 15.5 SB 111)

From M. Cato to M. Cicero, *imperator*, greetings.

(1) What both the state and our friendship urge upon me, I gladly do: I rejoice that your *virtus*, *innocentia*, and *diligentia*, recognized in the greatest deeds when you were a civilian at home, operate with equal diligence in arms abroad. And so I did what, in my opinion, I was able to do, and commended in my *sententia* and with my vote that by your *innocentia* and good counsel the province has been defended, the kingdom of Ariobarzanes saved with he himself as king, and the will of the allies recalled to devotion to our empire.

(2) I rejoice that a *supplicatio* has been decreed, if you prefer that we congratulate the divine gods rather than put down to your credit what was provided for the state in no way by chance but by your supreme reason and *continentia*. But if you think a *supplicatio* a sure sign of a triumph and on that account prefer that chance

⁵⁸ Griffin 1976, 237–8; cf. 1989, 35.

⁵⁹ Fehrle 1983, 230–1. Elsewhere he does suggest Stoic concerns behind (for example) Cato's proposal to surrender Caesar to the Germani (178–9).

be praised rather than yourself, a triumph does not always follow a *supplicatio*, and it is much more glorious than a triumph that the senate judge the province to have been retained and protected rather by the *mansuetudo* and *innocentia* of the *imperator* than by the force of soldiers or the mercy of the gods; that is what I proposed in my *sententia*.

(3) And therefore I have written these things to you at length, contrary to my usual custom, in order that, as I most greatly wish, you should understand both that I am working hard to persuade you that I wanted what I judged to be most splendid with regard to your *maiestas*, and that I rejoice that what you preferred has been done.

Farewell and think kindly of me and, with your course now established, furnish strictness and care to the allies and the state.

Most obviously, Cato privileges moral virtue above military achievements, just as Cicero had expected. Indeed, he makes no mention at all of the campaigns that formed the basis of Cicero's request for a *supplicatio*.⁶⁰ Instead Cato confines himself to praise for Cicero's moral and intellectual excellence—his conscientiousness and good counsel; the preservation of the province by mildness and uprightness *rather than* armed force—and that, he says, 'is much more glorious than a triumph' (§2). Moreover, in doing so he claimed to be thinking of Cicero's *maiestas*. Possibly he is referring to Cicero's personal prestige, but the usage is without parallel in the republic; *dignitas* was the obvious word to use. I suggest that Cato is using *maiestas* in a specifically Stoic sense, to denote ethical 'greatness' or 'true glory' consequent on virtue. This possibility will be considered in detail in chapter 8.

I have already noted the Stoic (and Catonian) connotations of *continentia* (§2). Cato's emphasis on Cicero's *diligentia* (§§1, 3) also deserves comment. *Diligentia* is associated in Stoic contexts and elsewhere with the careful fulfilment of offices and obligations⁶¹—a quality of obvious importance in provincial government,⁶² and one which Cato himself had displayed in his Cyprus mission.⁶³ En route to Cilicia in 51, Cicero had written to Atticus, 'my *continentia* and *diligentia* will be satisfactory'.⁶⁴ Evidently Cato was satisfied, and it is possible he was thinking not simply in terms of Cicero's duties as governor, but also the good man's duty to humankind.

⁶⁰ He does, however, address Cicero as *imperator* in the conventional fashion (cf. Stem 1999, 48). Shackleton Bailey (1977, 2.450) suggests that the omission of 'imp.' in Cicero's reply to this letter 'may not be accidental'.

⁶¹ For *diligentia* in a Stoic context, see e.g. Cic. *Mur.* 3; *leg.* 3.5; *off.* 1.73, 114.

⁶² e.g. Cic. *Verr.* 2.3.216; *Q. fr.* 1.1.18 SB 1; *Planc.* 64. However, *diligentia* is not as prominent as other, more 'passive', qualities of the good governor (*innocentia*, *abstinentia*, etc.).

⁶³ Val. Max. 4.1.14: *Cypriacam pecuniam maxima cum diligentia et sanctitate in urbem deportaverat*. ('He [Cato] had brought back the Cypriot money to the city with the greatest care and integrity.') Cf. Cic. *Mur.* 3 on Cato's *diligentia* generally.

⁶⁴ Cic. *Att.* 5.3.3 SB 96: *nostra continentia et diligentia satis faciemus*.

There is nothing specially Stoic about qualities like *mansuetudo* and *innocentia*—they are classic qualities of the ‘good governor’ and, while valued by the Stoics, they belong also to Roman tradition and the literature of ‘advice to kings’.⁶⁵ Indeed, *mansuetudo* (mildness) at first glance seems an odd fit with Cato’s ‘trademark’ *severitas*.⁶⁶ For the Stoics, however, the two were perfectly compatible, as Cicero allows even in *Pro Murena*.⁶⁷ In fact, *mansuetudo* and related qualities were integral to Stoicism’s beneficent attitude to the human race, a point Seneca makes explicitly in *De Clementia* (2.5–7). So, for example, the wise man will strive to benefit all, aid those who suffer misfortune, and correct—not simply punish—those who do wrong.

Mildness and moderation were also in Rome’s best interests. Cato commends Cicero for regaining the allies’ ‘devotion to our empire’ (*studium imperi nostri*, §1). This passage offers an important insight into Cato’s view of empire. *Studium*—enthusiasm or devotion—is used in the same way in *De Officiis*, in a discussion derived from the Stoic Panaetius (2.16). The success or failure of both states and individuals is dependent on the attitude of fellow men (2.20), and it is the role of wisdom and virtue to secure their *studium* (2.17). Thus empire founded on fear is never secure; it must be founded on affection earned through acts of service.⁶⁸ The same logic lies behind Cicero’s letter and Cato’s reply, written in the face of the real prospect of a Parthian war: misgovernment had produced disaffection among Rome’s allies; Cicero had regained their loyalty by his mildness and moderation.⁶⁹

The idea that provincials can and should feel affection towards an imperial power contrasts sharply with a speech like the *Pro Flacco*, where Cicero suggests that subjects inevitably resent their rulers.⁷⁰ What we have in Cato’s letter is an expression of the Stoic model of just empire. Rome’s *socii* are conceived of not as ‘assets’, let alone slaves,⁷¹ but almost as fellow citizens within an empire-wide polity. This emerges still more clearly from the closing

⁶⁵ For the influence of the genre at Rome, see e.g. Shackleton Bailey 1980, 147; Gruber 1988; Rawson 1989, 240.

⁶⁶ Cf. Pantzerhielm Thomas 1922, 11–12.

⁶⁷ Cic. *Mur.* 64–5. Note also that Cato’s harsh stance on the Catilinarian conspirators, which would seem to run counter to ideas of mildness and human society, could be justified in Stoic terms (see Cic. *off.* 3.32).

⁶⁸ Cic. *off.* 2.24, 26–7; presumably the Spartan example is Panaetius’, the Roman Cicero’s own. It is in this context that Cicero makes his well-known comment that Rome’s *imperium* could once have been called a *patrocinium* (2.27). More recently, however, Rome had suffered grave misfortunes, because ‘we prefer to be feared rather than loved and esteemed’ (*metui quam cari esse et diligere malumus*, 2.29). See Griffin 2008 on this important passage.

⁶⁹ Cf. Cic. *fam.* 15.1.3, 5 SB 104, to the magistrates and senate, where the connection between misrule and provincial disaffection is made explicit. See chapter 6 for fuller discussion.

⁷⁰ Cic. *Flacc.* 18–19. In *Verr.* 2.2.7, Cicero claims that Sicily is the exception to the rule. The persuasive context suggests that many of Cicero’s listeners shared these views.

⁷¹ See ‘Stoicism and just empire’, above, for refutation of the notion that the Stoic justification of empire depended on an analogy with slavery.

words of Cato's letter, which urge Cicero to continue as he has begun, rendering strictness and care to the allies and the state (*instituto itinere severitatem diligentiamque sociis et rei publicae praesta*, §3). Cato's letter shows signs of having been very carefully composed,⁷² and his choice of words warrants our close attention. Gelzer (1963, 265) pointed to the fact that Cato names the *socii* before the *res publica* and referred this to Cato's Stoic belief in the community of all humankind. But what is more significant, I think, is the conjunction. By linking *socii et res publica*, Cato links allies and citizens within a kind of cosmopolitan empire, to be governed alike with *severitas* and *diligentia*.⁷³ As we have seen, 'Laelius' defence of justice in *De Republica* likens rule over citizens and allies—*cives sociique*—to the consensual rule of mind over body or a father over his children.⁷⁴ Cato's *socii et res publica*, I suggest, makes the same point.

That point is highlighted if we compare Cato's letter with (for example) the *Verrines*, where Cicero identifies the welfare of Sicily with the advantage of the Roman state: not *socii et res publica* but *salus sociorum utilitasque rei publicae* (*Verr.* 2.3.21). The sort of argument most likely to prevail with a Roman jury was one founded on self-interest rather than concern for fellow human beings.⁷⁵ It is advantageous for Rome to protect the allies, but there is no generally accepted ethical obligation to do so. In Cato's letter, by contrast, there is no distinction between Rome and the provinces. Both are owed proper treatment in their own right—indeed, their interests are indivisible.⁷⁶

This message is an overarching theme of Cato's letter. Stem (1999, 49) points out that *res publica* is both the first and the last noun. But the same kind of symmetry highlights the indivisibility of *socii* and *res publica*. Cato begins by praising Cicero's moral excellence, equally at work at home and abroad (§1). He ends by urging Cicero to continue in that manner, showing *severitas* and *diligentia* to the allies and the state (§3). Cato's parting words are also a neat summation of his own policy. *Severitas* is not an attribute Cicero claimed for himself.⁷⁷ *Severitas* and *diligentia* are, however, typical Catonian qualities,

⁷² Stem 1999, 43–50; Tyrrell and Purser 1904, 239.

⁷³ Cf. Dragstedt 1969, 94, who attributes to Cato 'an intent to transcend metropolitan centralism and to incorporate provincials into a Stoic cosmopolis'.

⁷⁴ *Cic. rep.* 3.37; *Aug. civ. Dei* 14.23.

⁷⁵ Cicero allows for both perspectives, however (e.g. *Verr.* 2.3.122).

⁷⁶ The identity of interests is implicit throughout the letter, in that the defence of the province and the recovery of provincial good will (§1) are a service to the *res publica* (§2). While it is in Rome's interests to protect the allies, however, in Stoic thought the *honestum* and the (true) *utile* are always identical. Cf. e.g. Dyck 1996, 354.

⁷⁷ The only instance where Cicero indicates any *severitas* in his administration of Cilicia is *Att.* 6.3.3 SB 117, where he reports 'nobody insulted, a very few offended by a just and strict ruling, but none venturing to complain' (*offensus contumelia nemo, decreto iusto et severo perpauca, nec tamen quisquam ut queri audeat*). By contrast, *severitas* was a feature of Q. Cicero's administration of Asia (*Q. fr.* 1.1.19, 20, 21, 45 SB 1; 1.2.3, 5 SB 2).

which (for instance) he displayed equally in Cyprus as in his quaestorship in Rome.⁷⁸ In effect, Cato is commending Cicero for acting as he, Cato, would have done.⁷⁹

Distinctively Stoic elements

While I have argued that Stoicism played a key role in shaping and articulating Cato's interest in the provinces, it was by no means the only influence. Cato could look to his great-grandfather as much as to Greek philosophy for a model of good faith in dealings with foreigners and to Q. Mucius Scaevola as a model governor.⁸⁰ Indeed, the demands of Stoic ethics overlapped to a large extent with traditional Roman values and the accepted 'code of conduct' for provincial governors, in part due to the influence of Greek philosophy on those traditions. But I would like to suggest two ways in which Cato's Stoic view of empire set him apart from other Romans.

The first is simply the strength of his commitment to provincial welfare. Cicero calls him 'the one man who hears all our allies' complaints'⁸¹ and Plutarch (*Cat. Min.* 19.2) indicates that Cato went to unusual lengths to keep himself informed of provincial affairs. Cato was also an outspoken defender of provincial rights against the interests of tax farmers and businessmen.⁸² At the same time he strove to protect Rome's revenues, but insisted they flow to the treasury, not into private hands.⁸³ Further, when foreign affairs were discussed, almost always we find Cato or his friends active in debate.⁸⁴ This

⁷⁸ See 'Cato in Cyprus', below. Like his great-grandfather (e.g. Val. Max. 2.9.3; Cic. *Brut.* 294), Cato was famed for his *severitas*: Sall. *Cat.* 54.2, 5; Cic. *Mur.* 66. For Cato's *diligentia*, see e.g. Val. Max. 4.1.14 and Cic. *Mur.* 3. The combination of *severitas* and *diligentia* is not commonly found elsewhere.

⁷⁹ In fact, Cicero measured himself by Cato's standard: see chapter 8, 'Cicero in Cilicia'.

⁸⁰ See introduction, 'Provincial reform before 70'. Cato seems to have been related to Scaevola in some way (Plut. *Cat. Min.* 14.3; Geiger 1971, 181).

⁸¹ Cic. *fam.* 15.4.15 SB 110 (late 51 or early 50): *a quo uno omnium sociorum querelae audiuntur*. Cicero expected Cato to hear of his doings in Cilicia from his (Cato's) numerous eastern clients.

⁸² e.g. Cic. *Att.* 2.1.10 SB 21. Cato's efforts on behalf of Sicily and other free cities seem to have led to legislative change (see chapter 4, 'Cato and the *lex Julia*').

⁸³ See 'Cato in Cyprus', below; the reduction in the price of grain that he secured as tribune can also be seen as an expression of the principle that Rome's provinces should benefit the whole people: Plut. *Cat. Min.* 26.1; *Caes.* 8.6–7; cf. Dragstedt 1969, 73. Clearly Cato saw no inherent conflict between 'profits of empire' and his Stoic principles (note also 'Cato's' defence of private property in *De Finibus* book 3). Indeed, Cic. *off.* 3.88 suggests that Cato was a better friend to the *aerarium* than to the allies; see Griffin 1976, 238 n. 1.

⁸⁴ In addition to the instances discussed in this and other chapters, note e.g. M. Bibulus and M. Favonius' appearance on behalf of the people of Tenedos (Cic. *Q. fr.* 2.10 SB 14, early February 54) and Bibulus' active opposition to the law on the Asian tax contract in 59 (Cic. *Att.* 2.16.2 SB 36 with Shackleton Bailey 1965–70, 1.407).

dedication can be explained by Cato's Stoicism and the obligations it entailed towards all mankind. Unlike Cicero, moreover, he did not sacrifice principle to the pressures of the equestrian lobby.⁸⁵ That is the point of Cicero's above-mentioned comment, in the context of the Asian tax dispute, that Cato acted as if he were living in Plato's republic.⁸⁶ In *Pro Murena*, Cicero attributes Cato's strict attitude to the *publicani* directly to his Stoicism.⁸⁷

The second point is his attitude to war and triumphs. As we have seen, Cato valued moral excellence above military achievements in a manner atypical for a Roman. As far as we can tell, this was his genuinely held opinion. Cicero's attitude is revealing: initially he was pleased with Cato's letter, even though Cato did not support the *supplicatio*; it was only after Cato proposed a supplication for his son-in-law M. Calpurnius Bibulus that Cicero questioned his sincerity.⁸⁸ Cato was also more rigorous than his contemporaries in applying the standards of 'just war'. He seems to have opposed Crassus' Parthian campaign on the grounds that there was no *causa belli*.⁸⁹ Most famously, when a fifteen-day *supplicatio* was proposed for Caesar in 55, Cato moved instead that Caesar should be surrendered to the German tribes for breach of faith.⁹⁰ As Plutarch points out, Cato's attitude was exceptional: to the Roman mind, the victor was usually right.⁹¹ Victory was taken as proof of divine favour, and divine favour of just cause.⁹² For

⁸⁵ Cic. Att. 2.1.8 SB 21: *quid impudentius publicanis renuntiantibus? fuit tamen retinendi ordinis causa facienda iactura. restitit et pervicit Cato*. ('What is there more shameful than the publicani repudiating [their contract]? Yet the loss ought to have been borne for the sake of keeping the order on side. Cato opposed and prevailed.')

⁸⁶ Cic. Att. 2.1.8 SB 21: *Nam Catonem nostrum non tu amas plus quam ego; sed tamen ille optimo animo utens et summa fide nocet interdum rei publicae; dicit enim tamquam in Platonis πολιτείᾳ, non tamquam in Romuli faece, sententiam*. ('Now, I am no less fond of our Cato than you are; but, nevertheless, while exercising the best spirit and the greatest fides, the man sometimes harms the republic, for he gives his *sententia* as if in Plato's republic, not Romulus' dregs.') Cicero is referring particularly to Cato's proposal that equestrian jurors should be liable for bribe-taking and his opposition to the tax farmers' request for a reduction in their contract.

⁸⁷ Cic. Mur. 62: *Petunt aliquid publicani; cave <ne> quicquam habeat momenti gratia*. ('The publicani ask for something; take care lest favour should have any influence.') If this is an allusion to the debate over the Asian tax contract, either it is an anachronism included in the published speech or the dispute had begun already in 63.

⁸⁸ See chapter 6, 'Bibulus' *supplicatio*.

⁸⁹ Cic. fin. 3.75; see chapter 6, 'Disowning Crassus' campaign'.

⁹⁰ Plut. Cat. Min. 51.1–2; Caes. 22.4; comp. Nic. et Crass. 4.3; App. Celt. 18; Suet. Iul. 24.3. For discussion, see Morrell 2015a.

⁹¹ Plut. comp. Nic. et Crass. 4. Plutarch notes that, while Cato proposed surrendering Caesar, the people rejoiced in his victory (4.3). He is making the point that Crassus' Parthian expedition would have been judged very differently if, like Pompey's eastern campaigns and Caesar's conquest of Gaul, it had been victorious.

⁹² Thus, for example, Caesar pointed to his victory over the Helvetii as evidence in itself of the gods' approval (BG 1.40.12; cf. e.g. Harris 1985, 170; Feldherr 1998, 54; Riggsby 2006, 168), but see Morrell 2015a, 77–8 on the possibility of delayed divine punishment.

Cato, however, it seems that even the benevolence of the gods was not a guarantee of justice.⁹³

In fact Cato preferred to avoid war, or at any rate to minimize loss of life. Thus, when sent to annex Cyprus, Cato urged the king to yield without a fight.⁹⁴ As it happened, Ptolemy committed suicide, so Cato was able to liquidate the royal assets peaceably and with his customary integrity.⁹⁵ According to Plutarch, he later claimed ‘that he had collected more money for the city from Cyprus, without taking one horse or soldier, than Pompey from all his wars and triumphs, having stirred up the inhabited world’.⁹⁶ That, in Cato’s opinion, was the greater triumph.⁹⁷ Moreover, Cato’s principles were not sacrificed to the exigencies of civil war. In 49 he moved a motion that no city subject to Rome should be plundered and no citizen killed outside the field of battle (Plut. *Pomp.* 65.1; *Cat. Min.* 53.4). Similarly, he gave up Sicily because ‘he did not wish to destroy the island by involving it in war’,⁹⁸ and took various steps to protect Utica.⁹⁹ Recently, Welch has shown that Cato and Pompey tried to fight an ‘ethical civil war’, and that the republican strategy of encircling Italy was designed to limit loss of life.¹⁰⁰

Cato’s attitude to the triumph can be understood in this context as well. As tribune, Cato was probably joint author of a measure which sought to enforce the formal conditions for the award of a triumph.¹⁰¹ In addition, he opposed triumphs for Caesar,¹⁰² C. Pomptinus,¹⁰³ and (it seems) P. Cornelius Lentulus

⁹³ Conceivably Lucan (*BC* 1.128) hints at this in his famous line, ‘the victorious cause pleased the gods, but the defeated Cato’ (*victrix causa deis placuit sed victa Catoni*). By contrast, Lucan’s Caesar effectively takes the view that ‘might equals right’ (7.259–60); cf. Sklenář 2003, 145.

⁹⁴ Plut. *Cat. Min.* 35.1. According to Cicero (*Sest.* 63), Cato disapproved of the annexation, though he felt that the task would be better carried out by himself than by others.

⁹⁵ e.g. Plut. *Cat. Min.* 36.1–2, 38.3; Dio 39.22.2–3.

⁹⁶ Plut. *Cat. Min.* 45.2: ὅτι χρήματα μὲν ἐκ Κύπρου τοσαῦτα τῇ πόλει συναγάγοι, μήθ’ ἵππων ἔνα μήτε στρατιωτὴν λαβὼν, ὅσα Πομπήϊος ἐκ πολέμων τοσούτων καὶ θριάμβων τὴν οἰκουμένην κυκήσας οὐκ ἀνήνεγκε. If authentic, Cato’s complaint might be a twisting of Pompey’s claim to have triumphed over the *orbis terrarum*. In fact Pompey and Cato had more in common in their attitude to empire than this passage suggests.

⁹⁷ Dio 39.22.4. See chapter 8, ‘Stoic *maiestas* and true glory’.

⁹⁸ Plut. *Cat. Min.* 53.3: οὐ βούλεσθαι τὴν νῆσον ἐκπολεμῶ<σας> ἀπολέσαι. Cf. Dio 41.41.1; App. *BC* 2.40.

⁹⁹ Plut. *Cat. Min.* 58.1, 64.4, 65.3; *Bell. Afr.* 87–8.

¹⁰⁰ Welch 2012, esp. 26 and 59 on Cato’s ethics.

¹⁰¹ Val. Max. 2.8.1. The law required returning generals to swear an oath to the veracity of their reports and introduced penalties for false claims. Cf. e.g. Afzelius 1941, 126; Pittenger 2008, 113. Here, too, Cato may have been influenced by his great-grandfather, the author of a speech *De falsis pugnīs* (Gell. 10.3.17; see e.g. Astin 1978, 63).

¹⁰² Dio (37.54.2) indicates that Cato opposed Caesar’s request for a triumph as well as his request for candidature *in absentia* (Plut. *Cat. Min.* 31.3; *Caes.* 13.1–2), perhaps on the grounds that the campaigns against the Callaicians and Lusitanians had been unprovoked and unnecessary (Afzelius 1941, 127–8).

¹⁰³ Cic. *Att.* 4.18.4 SB 92; *Q. fr.* 3.4.6 SB 24. Cato had the support of his fellow praetor P. Servilius and the tribune Q. Scaevola.

Spinther,¹⁰⁴ while his letter makes plain that he would not endorse a triumph for Cicero. Cato's intention was to crack down on 'undeserved' triumphs and, probably, to limit unnecessary warfare.¹⁰⁵ A triumph recognized 5,000 enemy killed in a single battle (Val. Max. 2.8.1), but Cato preferred minimal casualties. In short, not only did Cato value moral excellence above military achievement, but we can detect in him an actual aversion to war which was quite 'un-Roman' and very likely attributable to his Stoicism.¹⁰⁶

CATO IN CYPRUS

Cato never governed a regular province. He therefore had limited opportunity to put his ethical principles into practice. In 58, however, Cato was despatched by a *lex Clodia* to take possession of the island of Cyprus and appropriate the royal estate.¹⁰⁷ These events have received considerable attention in modern scholarship.¹⁰⁸ Here I argue that Cato not only acted in a consciously upright fashion himself, but also used the Cyprus mission to set an example for others of how a province should be administered. Cato's *exemplum* was complicated by the nature of his mission: the annexation of Cyprus was an act of bare-faced imperialism that apparently Cato himself denounced as unjust (Cic. *Sest.* 63). Cicero may be right that Clodius and his allies intended to tarnish Cato by involving him in it.¹⁰⁹ Yet Cato was able to turn the tables on Clodius, using the mission to promote his own programme of administrative rectitude and advance his political career while completing the task with minimal harm to the Cypriots.¹¹⁰

¹⁰⁴ If Shackleton Bailey's identification (1977, 1.447) is correct, Cato opposed Lentulus' *supplicatio* (Cic. *fam.* 15.4.11 SB 110) and it is a fair inference that he also opposed the triumph, which was held in late 51 (*Att.* 5.21.4 SB 114).

¹⁰⁵ Cf. Afzelius 1941, 126, followed by Wistrand 1979, 25–6.

¹⁰⁶ Cf. Pantzerhielm Thomas 1922, 14, cited with approval by Afzelius 1941, 116.

¹⁰⁷ The island had already been annexed as Roman territory before Cato was given the task of carrying off the king's money and conducting the war against him, if necessary (Cic. *Sest.* 62; *dom.* 20). Cato probably had the rank of *pro quaestore pro praetore* (Vell. 2.45.4; Balsdon 1962, 134–5; Badian 1965, 111). Despite Plutarch's statement to the contrary (*Cat. Min.* 34.3; cf. 45.2), Cato evidently had ships and probably some troops. Cicero attests the prospect of war, and Plut. *Cat. Min.* 35.1–2 states that Caninius was sent ahead to urge the king to surrender while Cato made preparations on Rhodes. Ptolemy's suicide left him with a purely administrative task (Dio 39.22.2–3).

¹⁰⁸ The fullest account is Fehrle 1983, ch. 6; cf. Badian 1965; Oost 1955; Steel 2001, 203–4.

¹⁰⁹ Cic. *Sest.* 59–60. This in itself implies recognition of Cato's strong views on imperialism and the treatment of foreigners.

¹¹⁰ Cf. Fehrle (1983, 145), who suggests that Cato's 'stoischer Kosmopolitismus' will have manifested itself in sympathy for the Cypriot people.

According to Velleius (2.38.6), the annexation of Cyprus was authorized by a decree of the senate. Officially, it seems to have been justified on the basis that Ptolemy had aided pirates.¹¹¹ The real motive was probably fiscal—namely, to finance Clodius' grain law.¹¹² Cicero denounces the injustice of the annexation,¹¹³ and attributes the same view to Cato.¹¹⁴ The propriety of Clodius' action was at least questionable.

'Why, then, did [Cato] obey the law?'¹¹⁵ Possibly he found it expedient to cooperate with Clodius and the 'triumvirs' in 58,¹¹⁶ but the sources are unanimous that Cato was sent against his will,¹¹⁷ and Cicero's determination to exculpate Cato (at least publicly) is significant, in view of the enmity between Cicero and Clodius. Cato's acquiescence could be regarded as legitimizing Clodius' tribunate;¹¹⁸ moreover, it evidently irritated Cicero that Cato had been able to advance his career while he (Cicero) was exiled.¹¹⁹ Nonetheless, Cicero eulogizes Cato and offers a number of justifications for his actions: obedience to the laws; the futility of resistance; the real threat of violence.¹²⁰ Most interestingly, Cicero ascribes to Cato the view that 'since there would remain on the republic this stain of confiscating the kingdom, which no one could now wash out, it was more advantageous that what good might come to the republic out of these evils should be secured by himself rather than squandered by others'.¹²¹ Probably this was an argument Cato

¹¹¹ Schol. Bob. 133St. Strab. 14.5.2 states that the kings of Egypt and Cyprus had aided the pirates. Note also the personal motive ascribed to Clodius: that Ptolemy had failed to ransom him when captured by pirates (Dio 38.30.5; App. *BC* 2.23). Annexation may have been seen as the natural extension of Pompey's eastern policy (see chapter 2; Magie 1950, 384). The law annexing Cyprus had been passed, and Cato had already left Rome, before Clodius began to attack Pompey (Cic. *dom.* 66). The fact that the task was originally assigned to Pompey's supporter Gabinius (Badian 1965, 117) strongly suggests that Pompey was in favour; nor does Cicero mention any opposition from Pompey where we would expect him to (*Sest.* 58). The annexation may also have been presented as implementing the will of Ptolemy Alexander I (see Badian 1967, 178).

¹¹² Oost 1955, 100; Badian 1965, 117; Tatum 1999, 121–2; Brennan 2000, 428; Flor. 1.44.3–5; Amm. Marc. 14.8.15. Compare the case of Cyrene (Oost 1963).

¹¹³ Cic. *dom.* 20; *Sest.* 57, 59. Cf. e.g. Amm. Marc. 14.8.15.

¹¹⁴ Cic. *Sest.* 63; cf. Plut. *Cat. Min.* 40.2.

¹¹⁵ Cf. Cic. *Sest.* 60: *Cur igitur rogationi paruit?*

¹¹⁶ Cf. Tatum 1999, 155. Both Caesar (Cic. *dom.* 22) and probably Pompey (see n. 111) supported the annexation.

¹¹⁷ Cic. *Sest.* 60–3; Vell. 2.45.4; Plut. *Cat. Min.* 34.3; Dio 38.30.5.

¹¹⁸ Cic. *Sest.* 62 implies that Cato could have cast doubt on the validity of Clodius' laws (including Cicero's exile) by refusing to undertake the Cyprus command. Cf. Steel 2001, 203.

¹¹⁹ See Stem 1999, 176–81.

¹²⁰ Cic. *Sest.* 61–3. Evidently Clodius had attacked Cato as well as Cicero for executing citizens without trial: Cic. *dom.* 21. Cf. Fehrle 1983, 144, who suggests that Cato also acted out of deference to the sovereignty of the people.

¹²¹ Cic. *Sest.* 63: *quoniam illa in re publica macula regni publicati maneret, quam nemo iam posset eluere, quod ex malis boni posset in rem publicam pervenire, id utilius esse per se conservari quam per alios <dissipari>.*

used himself.¹²² In other words, he disapproved of the endeavour, but by carrying it out himself he could ensure that the maximum profit went to the Roman treasury. Cato probably also hoped to minimize the harm done to Rome's allies, not least by urging Ptolemy to surrender (Plut. *Cat. Min.* 35.1), but the sentiment Cicero reports has more to do with the principle that the profits of empire should flow to the Roman people than with Stoic philosophy.¹²³

Cato also distinguished sharply between the decision to annex Cyprus and his own mission there. It was only after the kingdom had been confiscated that a bill was proposed naming Cato himself.¹²⁴ Originally Cyprus was assigned to A. Gabinus (cos. 58) as part of the province of Cilicia.¹²⁵ Subsequently Clodius passed another law appointing Cato by name.¹²⁶ He did so partly as a means of removing an opponent from Rome,¹²⁷ but we should not dismiss Clodius' claim that, in appointing Cato, he had chosen the purest (*καθαρώτατος*) of the Romans and the only man worthy (*ἄξιος*) of the task, though many wanted it.¹²⁸ Probably Cato's probity commended him: he could be relied upon to convey the entire profit to the *aerarium*.¹²⁹ Indeed, Cato seems to have declared himself the best man for the job (Cic. *Sest.* 63).

Despite the circumstances of his appointment, Cato made the Cyprus mission a model of upright administration, whether judged in accordance with Roman *mores* or his own Stoic principles. He had not yet returned when Cicero praised his *continentia* in carrying out the commission (*dom.* 23), and later sources show that Cato's achievement made a deep impression.¹³⁰ For Valerius Maximus, Cato's abstention from profiteering and from all forms of

¹²² *Bonus* and *utilius* are Stoic terms, though not exclusively so; in addition, the idea of a stain or pollution to be purged is echoed in Cato's proposal in 55 that Caesar should be surrendered to the Germani so that he alone should suffer the pollution (*τὸ ἄγος*) for his breach of faith: Plut. *Cat. Min.* 51.1; cf. *Caes.* 22.4.

¹²³ Cf. Steel 2001, 204. Cato the Censor was a strong proponent of the principle that the profits of empire should flow to the Roman people and to the soldiers who had won them, not to a few individuals (Front. *ep. ad Ant.* 1.2.9; Gell. 11.18.18; Liv. 37.57.10–14). Cf. e.g. Val. Max. 4.3.5, 8, 13; Plut. *Ti. Gracch.* 9.5.

¹²⁴ Cic. *Sest.* 62. Cf. Oost 1955, 99; Badian 1965, 116–17.

¹²⁵ Badian 1965, 117. Gabinus' province was changed to Syria after Cyprus was made an extraordinary command.

¹²⁶ Cic. *dom.* 20; *Sest.* 62; Plut. *Cat. Min.* 32.2–3.

¹²⁷ e.g. Cic. *Sest.* 60; Plut. *Cat. Min.* 34.2. Cato was also given the task of restoring exiles to Byzantium, supposedly to prolong his absence (Plut. *Cat. Min.* 34.4, cf. 36.1).

¹²⁸ Plut. *Cat. Min.* 34.2; cf. Cic. *dom.* 21. Despite his troublemaking activities, Clodius' legislation reveals an interest in effective governance. See e.g. chapter 5, n. 62 for a possible law on scribes and Tatum (1999, 132–3) on the regulation of *obnuntiatio*.

¹²⁹ Badian 1965, 117; Fehrlé 1983, 144. Pompey probably did trust Gabinus, however.

¹³⁰ Curiously, Sallust referred to Cato's Cyprus mission in the preface to his *Histories* (fr. 1.6 McGushin). The episode fell outside the chronological scope of the work; possibly it was intended to highlight the deterioration of Roman rule (see McGushin 1992, 2.72–3). Sallust's other prefaces deal with similar themes, and in the *Catiline* 'Cato' is outspoken against avarice and the mistreatment of the provinces (52.10–12).

intemperantia made him an *exemplum* of *abstinentia* and *continentia*.¹³¹ Velleius comments that Cato's *integritas* verged almost on *insolentia* (here probably 'arrogance'), since on his return to Rome he sailed up the Tiber without stopping to greet the waiting magistrates and citizens.¹³² Dio (39.22.4) records that Cato carried out his task blamelessly (*ἀνεπίκλητος*) and in the best possible manner (*ἄριστα*), and contrasts Cato's disdain for money with the corruption of his contemporaries. There is no reason to credit the claims of Cato's enemies that he had engaged in theft and peculation.¹³³ Indeed, Cato was criticized for his very scrupulousness: his decision to sell even the poisons that he found among the royal estate was regarded as morally questionable,¹³⁴ and Caesar attacked him for his suspicious treatment even of his intimate companion Munatius (Plut. *Cat. Min.* 36.3).

Not only did Cato himself refrain from profiteering, but he kept his staff and his friends firmly in hand as well.¹³⁵ Cato was very conscious of the widespread problem of profiteering by members of magistrates' cohorts.¹³⁶ He suspected even his own friends and staff, offending most of them in the process, and personally took charge of the auctioning of the royal property.¹³⁷ Upon hearing of Ptolemy's suicide, Cato sent his nephew Brutus to supervise Caninius (Plutarch's 'Canidius').¹³⁸ Plutarch says Brutus did so against his will, 'because he respected Caninius, who had been ignominiously rejected by Cato'.¹³⁹ Once Caninius had proved his integrity, however, Cato made particular use of him, to the chagrin of Munatius.¹⁴⁰ Clearly Cato's mistrustfulness of his friends was exceptional, and Caesar attacked him on this basis in

¹³¹ Val. Max. 4.3.2. Cf. 4.1.14 (from *De moderatione*) on Cato's *sanctitas*.

¹³² Vell. 2.45.5. Cf. Plut. *Cat. Min.* 39.2.

¹³³ Sen. *contr.* 10.1.8, 9.6.7; Plin. *NH* 8.196; Dio 39.22.4; Plut. *Cat. Min.* 45.1; Geiger 1984, 39–40.

¹³⁴ Plin. *NH* 29.96; cf. Sen. *contr.* 6.4.

¹³⁵ Cf. e.g. Cic. *Q. fr.* 1.1.10–14 SB 1 and *leg.* 3.9 on the importance of restraining one's subordinates.

¹³⁶ Cf. chapter 5. ¹³⁷ Plut. *Cat. Min.* 36.2–3. See below in the text.

¹³⁸ Plut. *Brut.* 3.2; *Cat. Min.* 35.1. I accept Geiger's argument (1972) that 'Canidius' should be identified with L. Caninius Gallus (tr. pl. 56) and that he was Cato's quaestor (cf. Vell. 2.45.4). On the other hand, Geiger's view that Caninius was 'not a Pompeian' (133) is difficult to accept in view of his proposal in 56 that Pompey should be sent to restore Ptolemy Auletes (Plut. *Pomp.* 49.6; Cic. *Q. fr.* 2.2.3 SB 6, 2.5.3 SB 9). The possibility that Cato's trusted deputy was a close associate of Pompey is another hint that Cato and Pompey were prepared to cooperate on provincial matters. It might also explain Cato's slowness to trust Caninius.

¹³⁹ Plut. *Brut.* 3.3: *τόν τε Κανιδίον αἰδοῦμενος ὥς ἀτίμως ἀπερριμμένον ὑπὸ τοῦ Κάτωνος.*

¹⁴⁰ Plut. *Cat. Min.* 37.3: *Κανιδίῳ δὲ καὶ δι' ἐμπειρίαν χρῶμαι καὶ διὰ πίστιν ἐτέρων μᾶλλον, ἐξ ἀρχῆς μὲν ἀφιγμένῳ, καθαρῶ δὲ φαινομένῳ.* ("I make more use of Caninius than others because of my experience and trust in him; he came at the beginning and shows himself incorrupt.") This is the approach advocated by Cicero (*Q. fr.* 1.1.11 SB 1), to assign to each member of staff responsibilities corresponding to the trust he inspires. On Munatius, see Plut. *Cat. Min.* 37.2–3. At one point Cato even threatened Munatius with *pignora capere* for refusing to obey orders (37.3: *ἐνέχουρα λήψεσθαι*).

his *Anti-Cato* (Plut. *Cat. Min.* 36.3). As for Brutus, there is no evidence for any misconduct while in Cyprus, though the loan he made subsequently to the city of Salamis is notorious.¹⁴¹ Plutarch (*Brut.* 3.4) reports that Cato approved Brutus' conduct in Cyprus; he may have taken a different view of the loan.¹⁴²

Cato's Cyprus mission was also a model of *diligentia*, a quality he considered of the utmost importance in imperial administration, and one with Stoic associations.¹⁴³ Plutarch twice comments on his self-conscious ἀκρίβεια (exactness).¹⁴⁴ He was also exceptionally thorough in liquidating the royal estate. In addition to the king's jewels, robes, household furnishings, and statues, Cato sold ostrich fat and poison.¹⁴⁵ In all, says Plutarch (*Cat. Min.* 38.1), Cato raised almost 7,000 talents of silver (HS 168 million), an amount that exceeded expectations.¹⁴⁶

Oost (1955, 103–4) argues that Cato achieved this sum by exerting undue pressure on the buyers. Plutarch reports that Cato, 'wishing to do everything carefully, and to force everything up to the highest price', intervened in the auctions, 'talking personally with the buyers and encouraging each of them'.¹⁴⁷ However, 'the highest price' (ἄκρα τιμή) may mean no more than a fair price. The evil typically associated with Roman public auctions was not over-inflation but sale at artificially low prices.¹⁴⁸ Moreover, Oost assumes that most of the purchasers were Cypriots when, as Fehrle notes, they are much more likely to have been Roman businessmen in search of a bargain.¹⁴⁹

¹⁴¹ Cic. *Att.* 5.21.10–13 SB 114, 6.1.5–7 SB 115, 6.2.7–9 SB 116. The loan (at 48 per cent interest) was made in Rome in 56, after Brutus' return from Cyprus (cf. Oost 1955, 105–6). Whether Cato was in Rome at the time is not clear. Since Brutus is not mentioned in Plutarch's account of Cato's return voyage, and since Cato entrusted the second copy of his accounts to a freedman, it seems Cato and Brutus sailed separately (Plut. *Cat. Min.* 38.1–2; cf. *Brut.* 3.4). Furthermore, Cato probably did not return to Rome before about June 56 (see Oost 1955, 108 and Morrell, forthcoming b), whereas February is perhaps the likeliest time for such a loan to be made, in connection with the hearing of embassies (see e.g. Cic. *Verr.* 2.2.76; Bonnefond 1984). If Cato was in Rome, he must have known of the loan, which was the subject of two *senatus consulta*, though it is possible he (like Cicero) was unaware the money was Brutus'.

¹⁴² Cic. *Att.* 5.21.13 SB 114 implies that Cato would not have approved of the interest rate.

¹⁴³ Cato *fam.* 15.5.3 SB 111. See 'Cato in his own words', above.

¹⁴⁴ Plut. *Cat. Min.* 36.2, 38.3.

¹⁴⁵ Plut. *Cat. Min.* 36.2; Plin. *NH* 8.196, 29.96, 34.92; Sen. *contr.* 6.4. He also brought to Rome slaves, a large sum of money (Dio 39.22.4, 39.23.2), and the royal galley on which he sailed up the Tiber (Plut. *Cat. Min.* 39.2).

¹⁴⁶ Vell. 2.45.5. According to Plut. *Cat. Min.* 45.2, Cato claimed to have brought back more treasure from Cyprus than Pompey from all his campaigns.

¹⁴⁷ Plut. *Cat. Min.* 36.2: πάντα βουλόμενος εξακριβοῦν καὶ πάντα κατατείνειν εἰς ἄκραν τιμὴν... αὐτὸς ἰδίᾳ τοῖς ὀνουμένοις διαλεγόμενος καὶ προσβιβάζων ἕκαστον...

¹⁴⁸ Most notorious were Sulla's auctions during the proscriptions: Cic. *Rosc. Am.* 21, 24, 130; *off.* 1.43; Plut. *Sull.* 33.2; *Crass.* 6.6; Asc. 18C, etc. For auctions in the provinces, see e.g. Cic. *Verr.* 2.4.14, 53, accusing Verres of effectively stealing statues for which he paid well below the market price.

¹⁴⁹ Fehrle 1983, 151. He suggests that Cato's friend Munatius may have been among the purchasers.

In other words, Cato's 'high-pressure salesmanship' (Oost 1955, 103) was probably intended to prevent individuals from profiting at the expense of the public treasury.

Cato also showed remarkable *diligentia* in his precautions for transporting the money. If we can believe Plutarch, he packed the silver in specially fashioned caskets, each with a piece of cork attached by a long rope to 'mark the spot' in the event of shipwreck. In any case almost all of the money was safely transported.¹⁵⁰ On reaching Rome, moreover, Cato carried the treasure directly to the dockyard without pausing even to greet the assembled senators, magistrates, and citizens.¹⁵¹ This was not only a sign of diligence but a striking public demonstration of the principle that the profits of empire belonged to the Roman people.¹⁵²

Cato was less fortunate with his account books. Plutarch (*Cat. Min.* 38.2–3) records that two copies were carefully prepared, but one was lost to shipwreck and the other to fire. Cato's enemies took advantage of his bad luck. According to Dio, Clodius demanded Cato's accounts, 'not that he was able to convict him of any wrongdoing, but because nearly all the records had been destroyed by shipwreck and he expected to prevail on that account'.¹⁵³ Cato does not seem to have faced any serious accusation. Plutarch (*Cat. Min.* 38.3) comments that the royal stewards were ready to vouch for his integrity, and that he was vexed chiefly because he had hoped to present his accounts as an example to others.

Oost brings the further charge that Cato apparently had not deposited copies of his accounts in the province as required by the *lex Julia de pecuniis repetundis*.¹⁵⁴ That would be surprising in view of Cato's pointed scrupulousness in Cyprus and his obedience even to laws he considered unjustly passed (Cic. *Sest.* 61)—including, we are explicitly told, the *lex Julia*.¹⁵⁵ Fehrle suggests that Cato did in fact observe the law and that the documents lost were the

¹⁵⁰ Plut. *Cat. Min.* 38.1–2. *Brut.* 3.4 says that Brutus was responsible for transporting most of the treasure.

¹⁵¹ Vell. 2.45.5; Plut. *Cat. Min.* 39.1–3; cf. Val. Max. 8.15.10. Luc. *BC* 3.164 refers to treasure deposited by Cato in the temple of Saturn.

¹⁵² Plut. *Cat. Min.* 39.3 records that the treasure was carried through the forum, to the amazement of *ὁ δῆμος*. His account of Cato's return resembles the homecoming of Aemilius Paullus (cf. *Aem.* 30.2–3; Liv. 45.35.3).

¹⁵³ Dio 39.23.3: οὐχ ὅτι καὶ διελέγξαι τι αὐτὸν ἀδικοῦντα ἐδύνατο, ἀλλ' ὅτι ὑπὸ ναυαγίας τὰ γράμματα σχεδὸν τι πάντα διέφθαρτο, καὶ ἐδόκει κατὰ τοῦτό τι ἰσχύσειν.

¹⁵⁴ Oost 1955, 105. The law required a magistrate to deposit copies of his accounts in two cities in the province, in addition to the copy submitted to the *aerarium* in Rome (Cic. *fam.* 5.20.2 SB 128; *Att.* 6.7.2 SB 120; *Pis.* 61). As Oost notes, we cannot be certain that the law applied to Cato, who was not a regular governor, but to leave copies would be prudent in any case.

¹⁵⁵ Dio 38.7.6. Later, Cato's son-in-law Bibulus did disregard the *lex Julia*'s account-keeping provisions (Cic. *fam.* 2.17.2 SB 117). However, if there is a connection, it is more likely that Bibulus was protesting the way Cato was treated in 56 than that he was following Cato's example in ignoring the law (see chapter 8, 'Bibulus in Syria').

original, to be submitted to the *aerarium*, and Cato's personal copy; Clodius' attack and Cato's irritation are still explicable in view of the many months it would have taken to procure the records from Cyprus.¹⁵⁶ There is certainly no basis for Oost's suggestion that Cato deliberately 'lost' his accounts in order to conceal profiteering by his nephew Brutus.¹⁵⁷

The Cyprus mission as *exemplum*

I suggest that the picture of Cato's Cyprus mission we find in the sources, with its emphasis on diligence and integrity, reflects a studied effort on Cato's part to set an example of administrative rectitude and thereby improve the contemporary practice of Roman imperialism.¹⁵⁸ In doing so, Cato in turn may have been following the example of Scaevola and Rutilius Rufus, who made their administration of Asia a model for others,¹⁵⁹ and indeed of his own great-grandfather the Censor.¹⁶⁰ Fehrle suggests that Cato's exemplary conduct in Cyprus was the *πολίτευμα Catonis* against which Cicero and the other governors of the east were measured in 51–50.¹⁶¹ I agree that the Cyprus mission offered an *exemplum* of lasting importance, though, as we shall see in chapter 8, it was only part of 'Cato's policy' of imperial governance.

Official accounts in themselves could have exemplary force. In the *Verrines*, for example, Cicero adduces P. Servilius Isauricus' accounts as a model of *diligentia*.¹⁶² Plutarch (*Cat. Min.* 38.3) records that Cato had hoped to present his own accounts as an example to others of scrupulousness (*παράδειγμα τοῖς ἄλλοις ἀκριβείας*), and for that reason particularly was vexed by the loss of the documents. It was not only Cato's accounts, however, but his whole conduct in Cyprus that was intended as an example and presented as such. In September 57, even before Cato's return from Cyprus, Cicero remarked publicly on the

¹⁵⁶ Fehrle 1983, 154. Cato also kept a personal archive of treasury records (Plut. *Cat. Min.* 18.5).

¹⁵⁷ As Oost concedes (1955, 105).

¹⁵⁸ So also Fehrle 1983, 144–5, 153; cf. Steel 2001, 204, who notes the 'insistent moralizing' of Plutarch's account. I suggest that this moralizing derives from Cato himself and had a constructive purpose. We might compare Diodorus' treatment of Scaevola and Rutilius' Asian mission (37.5–6), likely derived from Rutilius himself via Posidonius.

¹⁵⁹ Explicitly endorsed as such by the senate: Val. Max. 8.15.6.

¹⁶⁰ Cato himself spoke of the Censor as his 'domestic example for imitation' (*domesticum exemplum ad imitandum*, Cic. *Mur.* 66). His habit of travelling on foot with minimum retinue, for instance, was probably modelled on his great-grandfather (compare Plut. *Cat. Min.* 5.3, 9.2 and *Cat. Mai.* 6.2; cf. Val. Max. 4.3.12).

¹⁶¹ Fehrle 1983, 144–5, 153; cf. 230–1 with n. 154, where he associates the phrase with 'catonischen Normen' more generally.

¹⁶² Cic. *Verr.* 2.1.57: *Cognoscite ex litteris publicis hominis amplissimi diligentiam*. ('Let us learn from the public records the diligence of this distinguished gentleman.') Cf. Cic. *fam.* 5.20.2 SB 128 and chapter 1, 'Exempla in the *Verrines*'.

extraordinary *virtus*, *dignitas*, *fides*, and *continentia* with which Cato had carried out his task.¹⁶³ The special honours proposed for Cato on his return—perhaps late entry in the elections for 55 and/or the right to use praetorian *ornamenta*—seem also to have been intended, in part, as recognition of his virtue.¹⁶⁴ According to Plutarch (*Cat. Min.* 39.3), the senate was prompted by the wealth Cato had brought to the city; however, Dio and Valerius Maximus relate the proposal to the moral excellence Cato had displayed in Cyprus, and Plutarch records that the consul Cn. Cornelius Lentulus Marcellinus conferred honour upon Cato for his virtue (ἀρετή).¹⁶⁵

Cato vigorously promoted his own achievements, at the cost of a major falling out with Cicero.¹⁶⁶ A renewed struggle between Cicero and Clodius in 56 had culminated in a debate in the senate on the validity of Clodius' tribunician legislation. Cato returned in time to defend Clodius' laws against Cicero's attack.¹⁶⁷ In doing so, he was upholding both the law authorizing his own mission in Cyprus and the rule of law more generally.¹⁶⁸ Probably Cato was technically correct, but his eagerness to take Clodius' part underscores the importance he attached to his Cyprus command. Dio (39.22.2) specifies that Cato acted because he was proud of his deeds and eager for them to be confirmed. His actions do not indicate any fellowship with Clodius, who in fact attacked Cato soon after his return (Plut. *Cat. Min.* 40.2).

Also significant is Valerius Maximus' chapter *De abstinentia et continentia*, where Cato's command is placed in the broader context of the temptations of Asia and the sphere of operation of regular provincial governors:

Verum ut huius viri abstinentiae testis Hispania, ita M. Catonis Epiros, Achaia, Cyclades insulae, maritima pars Asiae, provincia Cypros. unde cum pecuniae deportandae ministerium sustineret, tam aversum animum ab omni venere quam

¹⁶³ Cic. *dom.* 23; see *Att.* 4.2.2 SB 74 for the date. Cicero's praise was probably designed, in part, to support Cato's campaign for the praetorship (see *fam.* 1.9.19 SB 20).

¹⁶⁴ Val. Max. 4.1.14, Plut. *Cat. Min.* 39.3, and Dio 39.23.1, 4 all give different versions; see e.g. Brennan 2000, 429 and Fehrle 1983, 159–61 for discussion.

¹⁶⁵ Dio 29.22.4–23.1; Val. Max. 4.1.14; Plut. *Cat. Min.* 39.4. Both Valerius' and Plutarch's versions derive ultimately from Munatius Rufus (Geiger 1979, 51–2). In fact, the treasure was also a tribute to Cato's virtue, in that Cato's integrity had returned the maximum profit to the treasury.

¹⁶⁶ Plut. *Cic.* 34.3; *Cat. Min.* 40.2; Dio 39.22.1–2. They were reconciled by 54 (e.g. Cic. *Q. fr.* 2.10.2 SB 14).

¹⁶⁷ See Dio 39.20–1; Plut. *Cic.* 34; *Cat. Min.* 40; Morrell, forthcoming b. Cicero argued that the illegality of Clodius' transfer to the plebs rendered all his tribunician legislation invalid; Cato countered that, while he disapproved of Clodius' laws, they were nonetheless binding. Cato probably accepted that an augural flaw affected Clodius' transfer to the plebs, since Bibulus had been watching the skies at the time (cf. Cic. *dom.* 40); however, as the *lex curiata* had not been annulled, the flaw did not 'infect' Clodius' legislation in the way Cicero claimed. I suggest that Cic. *prov. cons.* 45–7 preserves Cicero's response to Cato's argument.

¹⁶⁸ See Plut. *Cic.* 34.2. Elsewhere Cicero too acknowledged that wholesale abrogation was not a viable option (*dom.* 34).

a lucro habuit, in maxima utriusque intemperantiae materia versatus: nam et regiae divitiae potestate ipsius continebantur et fertilissimae deliciarum tot Graeciae urbes necessaria totius navigationis deverticula erant. atque id Munatius Rufus, Cypriacae expeditionis fidus comes, scriptis suis significat. cuius testimonium non amplector: proprio enim argumento laus ista nititur, quoniam ex eodem naturae utero et continentia nata est et Cato. (Val. Max. 4.3.2)¹⁶⁹

Truly Spain was witness to the *abstinentia* of this man [Scipio]; just so to that of M. Cato, Epirus, Achaea, the Cyclades islands, the maritime part of Asia, the province of Cyprus. Charged with the duty of bringing back the money from Cyprus, he kept his mind as averse from all sexual activity as from profit, though situated among abundant material for both forms of intemperance: for both the king's riches were within his power and the most fertile delights of so many Greek cities were necessary stops on his voyage. And Munatius Rufus, his faithful companion on the Cyprus expedition, signifies this by his writings. I do not embrace his testimony, for this praise is an argument for itself, since both continence and Cato were born from the same womb of Nature.

The *continentia* motif and the reference to Munatius Rufus suggest that this depiction of Cato's command derives ultimately from Cato himself.¹⁷⁰ There are also resonances with the source tradition on Scaevola's Asian command, *Pro Lege Manilia*, and Cicero's first letter to Quintus, which might indicate that Cato was situating himself within a discourse on good government.

Finally, it is worth noting Cato's praise for others, perhaps also by way of *exempla*. Plutarch (*Brut.* 3.3–4) records that Cato praised Brutus for his diligence (ἐπιμέλεια) and entrusted him with much of the treasure. He also pronounced Caninius καθαρός (Plut. *Cat. Min.* 37.3) and later commended the royal steward Nicias for his care and trustworthiness (ἐπιμέλεια and πίστις: *Cat. Min.* 39.3). Conceivably, Cato intended in this way to inculcate ethical change among the governor's cohort, which was also the target of his proposal to extend the *lex Julia* in 55 (see chapter 5).

Thus Cato transformed his 'banishment' into an opportunity to promote both his own political career and his programme of probity in provincial governance—or, rather, in Rome and the provinces without distinction, a hallmark of his Stoic attitude to empire.¹⁷¹ The circumstances of his appointment, particularly the sentiments Cicero and Plutarch ascribe to Clodius,

¹⁶⁹ Cf. Val. Max. 4.1.14 (from *De moderatione*) for Cato's *diligentia* and *sanctitas*.

¹⁷⁰ While Munatius was eyewitness to only part of the mission, and fell out with Cato while on Cyprus (Plut. *Cat. Min.* 37.2–5), it is a reasonable guess that he recorded Cato's activities in Cyprus in the way Cato wanted them recorded.

¹⁷¹ Cato made his achievements in Cyprus part of his campaign for the praetorship and, later, the consulship. See e.g. Dio 39.22.1–2, in the lead-up to Cato's campaign for the praetorship of 55, and Plut. *Cat. Min.* 45.2, reporting an incident from 53, when Cato will already have been thinking of his consular campaign. The political significance of Cato's achievement should not be underestimated. Of course, the treasure Cato had brought back will have counted for more, in the eyes of the *populus*, than his upright conduct.

confirm that Cato's name was already associated with administrative rectitude before he was sent to Cyprus. The qualities Cato sought to embody once there were the same that he had demonstrated in his quaestorship and would emphasize in his letter to Cicero. *Ἀκρίβεια* and *ἐπιμέλεια* in Plutarch correspond precisely to the *severitas* and *diligentia* Cato urged on Cicero.¹⁷² *Contentia*, too, is a theme both of the letter and of the sources on Cyprus.¹⁷³

Cato's concern with fiscal integrity and the interests of the Roman treasury could not be clearer. Given the nature of his mission, there was limited scope for Cato to demonstrate his more 'humanitarian' principles regarding the proper treatment of foreigners. Valerius (4.3.2), however, implicitly contrasts Cato with the usual model of corrupt governor, and it is possible that Cato's reputation for virtue was a factor in the Cypriots' decision to submit to Rome. Dio says that, after Ptolemy's suicide, 'the Cypriots admitted Cato not unwillingly, expecting to be friends and allies of the Romans rather than slaves'.¹⁷⁴ As discussed in chapter 2, a virtuous reputation played a key role in the success of Pompey's eastern campaigns. It is also worth noting that Cato became patron of the Cypriots, and Cicero expected him to defend their rights even against Brutus' interests.¹⁷⁵

CATO'S FRIENDS, PTOLEMY, AND CORRUPTION

Early in his narrative of Cato's Cyprus mission, Plutarch describes Cato's encounter with the Egyptian king Ptolemy XII Auletes.¹⁷⁶ Ptolemy, having been expelled from his kingdom, called on Cato at Rhodes and expressed his intention of seeking restoration with Roman assistance. Cato responded by warning Ptolemy of the hardship he was subjecting himself to in dealing with the corruption (*δωροδοκία*) and greed (*πλεονεξία*) of powerful Romans, and advising him instead to return to Egypt and seek reconciliation with his people.¹⁷⁷ In fact there was a direct connection between Ptolemy's expulsion and his dealings with Rome: he had been expelled partly in response to the financial exactions necessary to pay the sums he had promised for recognition

¹⁷² Plut. *Cat. Min.* 36.2, 38.3, 39.3; *Brut.* 3.3; *Cato fam.* 15.5.3 SB 111.

¹⁷³ *Cato fam.* 15.5.2 SB 111; *Cic. dom.* 23; *Val. Max.* 4.3.2.

¹⁷⁴ Dio 39.22.3: οἱ Κύπριοι τὸν Κάτωνα οὐκ ἀκουσίως, ἅτε καὶ φίλοι καὶ σύμμαχοι τῶν Ῥωμαίων ἀντὶ δούλων ἔσεσθαι προσδοκήσαντες, ἐσεδέξαντο.

¹⁷⁵ See e.g. *Cic. fam.* 15.4.15 SB 110; *Att.* 6.1.5 SB 115.

¹⁷⁶ Plut. *Cat. Min.* 35.2–5. The story probably derives ultimately from Munatius Rufus (Geiger 1979, 51). We must suspect a degree of embellishment, but the sentiments ascribed to Cato accord with his attested views. For the background to this episode, see e.g. Siani-Davies 2001, 2–21.

¹⁷⁷ Plut. *Cat. Min.* 35.4. Plutarch adds that Cato offered his own services as mediator.

as friend and ally, and partly because of his complacency towards the Roman annexation of Cyprus (Dio 39.12.1–3). Thus Cato's advice to Ptolemy was not only a warning of the corruption that awaited him but a reminder of how far his present troubles were due to his previous dealings with Rome.

On the one hand, this passage establishes the contemporary ethos of corruption and avarice that Cato hoped to amend by his example in Cyprus. It also looks forward to the debate over Ptolemy in 57–56. After his encounter with Cato, Ptolemy continued to Rome and petitioned the senate for military support in recovering his throne. He made his case with money and was also responsible for the murder of the ambassadors who travelled from Alexandria to oppose his restoration (Dio 39.12–16). The task was initially assigned to Lentulus Spinther as proconsul of Cilicia, but the discovery of a Sibylline oracle prohibiting the use of an army served to reopen the issue.¹⁷⁸ Various proposals were put forward that Lentulus, Pompey, or a commission of three (with or without *imperium*) should restore the king.¹⁷⁹ No agreement was reached, and eventually the senate voted that Ptolemy should not be restored at all. Subsequently Gabinius, acting on Pompey's advice, led his proconsular army into Egypt and restored the king.¹⁸⁰

Cato himself was absent from Rome from 58 to 56, but it was his emulator M. Favonius who proposed a senatorial inquiry into the murders and allegations of bribe-taking and his son-in-law Bibulus who moved that Ptolemy should not be restored with an army.¹⁸¹ Interestingly, the premise of Bibulus' proposal was more or less what Cato is said to have proposed to Ptolemy—that is, to provide diplomatic support but no troops. For Favonius and Bibulus, moreover, the 'Egyptian question' was not simply a 'Pompey question', as it is often regarded by modern scholars, but a foreign policy matter with an important moral dimension. It was only after Favonius' proposal and the publication of the Sibylline prophecy that Pompey's name was put forward to restore the king and the involvement of Cato's friends took on an anti-Pompey character.¹⁸²

¹⁷⁸ Lentulus' appointment: Dio 39.12.3. Sibylline oracle: Dio 39.15.2; Cic. *fam.* 1.1.3 SB 12, 1.7.4 SB 18.

¹⁷⁹ Cic. *fam.* 1.1.3 SB 12; Plut. *Pomp.* 49.6.

¹⁸⁰ See Siani-Davies 2001, 25–32 on Gabinius' campaign and Dio 39.55.2–3, 39.56.3 for Pompey's involvement. Earlier, Pompey (through Cicero) had advised Lentulus to go ahead and restore the king (Cic. *fam.* 1.7.4–5 SB 18). This is evidence that Pompey himself had no strong desire for the Egyptian command.

¹⁸¹ Favonius' proposal: Dio 39.14.1. Bibulus' motion: Cic. *fam.* 1.1.3 SB 12, 1.2.1 SB 13; Q. fr. 2.2.3 SB 6. Bibulus proposed instead that Ptolemy should be restored by *tres legati* without *imperium*, but his motion was split and that part defeated. The component *de religio* passed. On Cato's familial and political alliance with Bibulus, see e.g. Plut. *Cat. Min.* 25.2–3, 32.2, 47.3; Cic. *Att.* 7.2.7 SB 125; Suet. *Iul.* 19.1; App. *BC* 2.11. On Cato and Favonius, see Plut. *Cat. Min.* 32.6, 46; Dio 38.7.1, 39.34.1–2, 39.35.4–5; Cic. *Att.* 4.17.4 SB 91; [Sall.] *ep. ad Caes.* 2.9.3–4.

¹⁸² The sequence of events is explicit in Dio (39.16.1–2), who says that Ptolemy wrote asking for Pompey after he heard of the oracle, and confirmed by the fact that none of the proposals that Pompey should restore the king involved the use of an army (Plut. *Pomp.* 49.6; Cic. *fam.* 1.1.3 SB 12; cf. Q. fr. 2.2.3 SB 6).

The extent of moral outrage at Rome over the murder of the Alexandrian ambassadors should not be underestimated. It was in this context, and perhaps on this account, that the Sibyl's prophecy was 'discovered'.¹⁸³ In addition, Ptolemy had transgressed the proper boundaries of foreign affairs. When he followed the appropriate channels and petitioned the senate for assistance, he provoked no strong reaction. By trying to dictate *who* would restore him, however, he intruded on Rome's internal affairs and the authority of the senate. Worse still, the senate had let itself be bribed, as Favonius complained (Dio 39.14.1). Bibulus' motion can be seen as seeking balance between the king's interests and his subjects', and an appropriate separation between Roman affairs and Egypt's.¹⁸⁴

Ultimately, indeed, most senators preferred to wash their hands of Ptolemy: by mid-56 the senate had decreed, on the motion of the elder Servilius Isauricus, that he should not be restored at all.¹⁸⁵ The decree was vetoed, and Pompey settled the matter by despatching Gabinius (Dio 39.56.3). But the story did not end there. A series of trials served to keep the moral question in the spotlight. P. Asicius stood trial for the murder of Dio, and the fate of the Alexandrian ambassadors was a key issue at the trial of M. Caelius Rufus in April 56.¹⁸⁶ Around the same time, the response of the haruspices condemned the murder of ambassadors, which was naturally interpreted as a reference to the Alexandrian embassy (Cic. *har. resp.* 34). Debate continued in 55.¹⁸⁷ How far Cato and friends might have been involved, we cannot say. However, when Gabinius returned in 54, Cato as *praetor repetundis* played an active role in his trial and that of the financier C. Rabirius Postumus, one of Ptolemy's principal creditors. The formal charge against Rabirius was receipt of money but, as I will argue in chapter 5, there were bigger questions on trial.

¹⁸³ Dio 39.15.3 says the prophecy was made public by C. Cato, but there is no indication that he devised it. Conceivably the initiative came from M. Cato's circle. Cic. *Rab. Post.* 4 indicates that the prophecy was critical of Ptolemy's 'deceitful intentions' (*dolosis consiliis*). Certainly the rumbling noise heard in early 56 or late 57 was referred, in part, to the murder of the Alexandrian ambassadors (Cic. *har. resp.* 34). I suggest this was the second time religious means were used to comment on the Egyptian question.

¹⁸⁴ See above, n. 181.

¹⁸⁵ Cic. *fam.* 1.1.3 SB 12, 1.7.4 SB 18.

¹⁸⁶ Asicius: *TLRR* no. 267. Caelius: Cic. *Cael.* esp. 18, 23–4, 51–2.

¹⁸⁷ e.g. Dio 39.59–60.1; Cic. *Pis.* 48–50. Cicero virtually accuses Gabinius of *maiestas*; note particularly his claim that Gabinius had entered Egypt contrary to *religio* and without the authority of the senate. In view of their activities in 56 and 54 it is likely, though not directly attested, that Cato and friends joined the attacks on Gabinius in 55. The issue may have been linked with the contemporaneous debate concerning Crassus' Parthian war (see chapter 6, 'Disowning Crassus' campaign').

CONCLUSIONS

The letter Cato wrote in 50, together with the evidence of Cicero and Plutarch, indicates that Cato subscribed to a distinctively Stoic view of empire, according to which citizens and *socii* alike were part of a human community united under natural law. It is surely no coincidence that the best explanation we have of Stoic *οἰκείωσις* and the world city of gods and men was put into Cato's mouth in Cicero's *De Finibus*. This attitude to empire, and to humankind, accounts for Cato's special interest in the provinces and the unusually rigorous ethical standards he set for himself and his contemporaries.

I am not suggesting that Cato was the only ethically-minded Roman, or indeed the only Roman who attempted to apply philosophical principles in public life. Cicero makes the same claim for himself and Varro (*fam.* 15.4.16 SB 110; *acad.* 7) and, as I argued in chapter 2, there is strong evidence that Pompey's attitude to empire was influenced by Stoic thought. Neither was Cato the perfect sage that posthumous tradition depicted.¹⁸⁸ He was, above all, a Roman politician—and that is precisely why his Stoicism is significant. Cato's example demonstrates that philosophical views could have real implications for the practice of Roman imperialism. The Cyprus mission was an opportunity for Cato to apply his *diligentia* and *continentia* and, in doing so, to set an example for his contemporaries, even if the main beneficiaries were the Roman people rather than the Cypriots. More significantly, Cato played a critical role in foreign policy in the late 50s and, as later chapters explore, the standards he applied were essentially Stoic. In this way, ethical principles derived from philosophy were given a sphere of activity far wider than Cato's own.¹⁸⁹ Thus, when Cicero said in 51 that he and the other eastern governors were 'strengthening Cato's policy', in a sense they were striving towards a Stoic ideal of empire.¹⁹⁰

¹⁸⁸ e.g. *Sen. const.* 7.1 (Cato as the phoenix-like sage, possibly surpassing that ideal). Cf. *Cic. par. Sto.* 2 (*perfectus Stoicus*); *Brut.* 118 (*perfectissimus Stoicus*).

¹⁸⁹ Cf. Plutarch's essay 'That a philosopher ought to converse especially with men in power', citing Cato as example at 777a.

¹⁹⁰ *Cic. Att.* 6.1.13 SB 115: *firmiter πολιτεύμα Catonis*. 'Cato's policy' is the subject of chapter 8.

The last *lex repetundarum*

The *lex Julia de pecuniis repetundis* passed by Julius Caesar in 59 was the last in a long series of republican extortion laws. Over less than a century the *lex repetundarum* had evolved from an essentially recuperative process into a kind of charter for the provincial governor which extended far beyond the original concern with recovery of money to the detailed prescription of the rights and responsibilities of magistrates in the provinces. In addition, the *lex repetundarum* had come to overlap with the *lex maiestatis*, providing an alternative forum for prosecution and (probably) criminal penalties. It is not clear, however, when these developments occurred or how far they should be credited to Caesar. While certainty is not possible, I argue in this chapter that the *lex Julia* marked the final stage in an evolutionary process rather than a fundamental reconceptualization of the *lex repetundarum*. Moreover, the law can be seen as a collaborative project, to which Caesar's ally Pompey and even his opponent Cato contributed.

THE DEVELOPMENT OF THE *LEX REPETUNDARUM*

The history of the *lex repetundarum* has been studied extensively and a brief summary will suffice here.¹ Until the second century, governors who engaged in extortion were dealt with by private actions and ad hoc proceedings, which proved inadequate to protect the allies. In 149 the *lex Calpurnia de pecuniis repetundis* was passed, establishing Rome's first permanent *quaestio*.² Its scope (so far as we know) was fairly limited: it dealt only with the extortion of

¹ On the development of the *lex repetundarum*, see e.g. Venturini 1979; Lintott 1981 and 1993, ch. 6; Brunt 1961; Riggsby 1999, ch. 5; Dyck 2012, 1–6. On particular *leges*, Sherwin-White 1982; Richardson 1987; Lintott 1992; RS nos 1 and 55. Cf. Alexander 2002, part 1 for detailed discussion of some extortion trials.

² See e.g. Richardson 1987, 1.

property and the penalty was simple restitution.³ On the other hand (*pace* Richardson) there is no reason to doubt Cicero's explicit testimony that the law was intended to benefit provincials, even if it also served other purposes.⁴

The first significant reform was the *lex repetundarum* of the Tabula Bembina, probably a Gracchan law of the late second century and identical with the *lex Acilia* (or closely related to it).⁵ Extortion was defined very broadly: the law speaks of money above a certain sum 'carried off, seized, extorted, procured, or appropriated' (*ablatum captum coactum conciliatum aversumve*).⁶ Possibly this definition was taken over from the *lex Calpurnia*. Unlike its predecessors, however, the epigraphic law provided for twofold restitution (ll. 59) and introduced the *nominis delatio* procedure, which was more accessible to provincials. Roman citizenship was offered as a reward for successful prosecution (ll. 76–8). Another important development was the introduction of equestrian juries. This change was made in response to the corruption of senatorial courts and, according to Appian (*BC* 1.22), the senate acknowledged the need for reform. In the longer term, however, it proved somewhat counter-productive, in that fear of equestrian juries made governors reluctant to protect provincials.⁷

Two *leges Serviliae* made further changes. The law passed by Q. Servilius Caepio as consul in 106 restored senators to jury-service, possibly in mixed juries,⁸ and may have introduced the *divinatio* procedure, according to which the jury decided between multiple would-be prosecutors, not necessarily in accordance with the plaintiffs' wishes. This tended to take prosecution out of the hands of aggrieved allies, transforming the court into a forum in which citizens prosecuted officials (Lintott 1981, 188, 191; Riggsby 1999, 123). However, if Caepio's law is rightly identified with the *acerbissima lex Servilia*

³ See *lex rep.* (RS no. 1) l. 59, with RS 1.107. Lintott (1981, 176) suggests that the *lex Calpurnia* and *lex Junia* may have contained positive regulations on the conduct of magistrates, but there is no evidence.

⁴ e.g. *Cic. div. Caec.* 17–18; *Verr.* 2.2.15. Richardson (1987, 4–7) argues that the fact that procedure under the *lex Calpurnia* was by *legis actio sacramento* indicates it was intended primarily for use by citizens (cf. Betts and Marshall 2013). A possible solution to the problem Richardson raises is that the *lex Calpurnia* (or a related law) created a new form of *actio* to facilitate recovery by *peregrini*: see Riggsby 1999, 126–9; Bauman 1999, 60–1.

⁵ Cf. e.g. Sherwin-White 1982; Lintott 1981, 182–5; Riggsby 1999, 121; *contra* Mattingly 1970 (etc.), who argues that the epigraphic law is that of Servilius Glaucia. Nothing further is known of the *lex Junia* mentioned at ll. 73–5.

⁶ *Lex rep.* ll. 2–3. Sherwin-White (1982, 20) holds that all forms of acquisition were forbidden, including gifts above a modest sum. Cf. e.g. Riggsby 1999, 122.

⁷ See e.g. Badian 1956, 114; Sherwin-White 1982, 22–3.

⁸ The evidence is contradictory; see e.g. Balsdon (1938, 103–5), arguing for mixed juries, and Cloud (1992, 511–12), who favours all-senatorial juries. Caepio's law was regarded as anti-equestrian (*Cic. Clu.* 140 and *de or.* 1.225, 2.199). Cf. Griffin 1973, 114–16 for the evidence that it was an extortion law rather than a *lex iudiciaria*.

known from Cicero's *Pro Balbo* (54), it continued to offer strong protections for the allies and rewards for successful prosecutors (Lintott 1981, 186–7).

The law of C. Servilius Glaucia, passed perhaps in 101 (Lintott 1981, 189), reversed Caepio's change to jury-composition. It also introduced the clause *quo ea pecunia pervenerit*, which provided for the recovery of money from third parties, and the division of the trial into two *actiones*.⁹ Thus, with Glaucia's law, the *quaestio repetundarum* assumed more or less its final form. Lintott argues that Glaucia was also responsible for incorporating general regulations on the conduct of magistrates abroad, transforming the *lex repetundarum* into an instrument as much concerned with controlling officials as with recovering property.¹⁰ Certainly no such positive regulations are found in the *Tabula Bembina*, though they may post-date Glaucia (see below on the *lex Porcia*).

Unfortunately, relatively little is known of Sulla's extortion law, despite the fact that C. Verres was prosecuted under it. Probably it belongs to the reforms of 81, contemporary with Sulla's *lex maiestatis*.¹¹ Senators once again had a monopoly of the courts,¹² though Sulla retained other key features of Glaucia's law, including *comperendinatio* and the recovery provision (Cic. *Verr.* 2.1.26; *Rab. Post.* 9). One possible innovation was the extension of the law to (senatorial) jurors who accepted bribes.¹³ The governor, too, was prohibited from accepting money for making a judicial decision or official appointment;¹⁴ he was also forbidden from engaging in moneylending within his province (Cic. *Verr.* 2.3.169). Another important feature (not necessarily new) was the inclusion of detailed regulations on a governor's conduct. For instance, the acceptance of money for statues or temples was allowed (Cic. *Verr.* 2.2.137; *Q. fr.* 1.1.26 SB 1), but the number of statues was limited, and money could be collected only from willing contributors, had to be spent within five years, and could not be used by the governor for private purposes.¹⁵ Other features of Sulla's law will be considered below in connection with the *lex Julia*.

Another law which warrants mention, though not an extortion law, is the *lex Porcia* passed by an M. Porcius Cato as praetor in the last quarter of the

⁹ Cic. *Verr.* 2.1.26; *Rab. Post.* 9. See e.g. Lintott 1981, 189–91; Riggsby 1999, 122.

¹⁰ Lintott 1981, 194–7, 202–3; cf. 1993, 103–4.

¹¹ See MRR 2.75; Gruen 1968, 258–65.

¹² Whether Sulla effected this through the *lex repetundarum* or a general *lex iudiciaria* is immaterial here.

¹³ Under Sulla's law, the *quaestio repetundarum* was the court in which jurors were normally tried for accepting bribes (Cic. *Clu.* 103–4); the *lex Cornelia de sicariis et veneficiis* could also be used (115–16), but perhaps only where bribe-taking amounted to 'judicial murder'. See e.g. Ewins 1960, 99–100, 105–6; Griffin 1973, 116.

¹⁴ Cic. *Verr.* 2.2.119–20; cf. 20–1, 30, 69, 79, etc.

¹⁵ Cic. *Verr.* 2.2.141–3. Presumably similar rules applied regarding temples and memorials. However, the law left a significant loophole in that, while the number of statues was limited, the total amount was not.

second century.¹⁶ The law seems to have had two functions, namely to limit the powers of magistrates and to protect the allies.¹⁷ Two provisions are known from the *lex de provinciis praetoriis* of c.100, one prohibiting a magistrate from acting outside his province without authorization, another requiring him to restrain his staff (τούς τε ἑαυτοῦ κωλύετω).¹⁸ In addition, the *lex Porcia* prescribed in detail what requisitions a governor could make from the allies.¹⁹ It can be seen as an attempt to codify new and existing regulations concerning the government of the provinces.²⁰ Its rules were incorporated by reference in other statutes, such as the *lex Antonia de Termessibus*, and probably also enforceable by fines.²¹

The *lex Porcia* helped to transform the *lex repetundarum* from a mechanism for the recovery of money into a more general instrument governing magistrates in the provinces.²² The prohibition on a governor leading his army outside his province was incorporated in both the *lex Julia de pecuniis repetundis* and Sulla's *maiestas* law,²³ and it is likely that many detailed regulations on requisitioning and so forth attested for later extortion laws also derive from the *lex Porcia*. Lintott (1981, 196) argues that this process began with Glaucia's law, and that the *lex Porcia* and the *lex Servilia* may have been part of the same programme. But it is more likely the *lex Porcia* represents an initially separate legislative tradition that later merged with the *lex repetundarum*,²⁴ especially if we accept Ferrary's dating of the law to c.121.²⁵

¹⁶ Since the *lex de provinciis praetoriis* (RS no. 12), Cnidos copy, col. 3, ll. 4–6 describes the *lex Porcia* as passed 'three days before the Ferialia' (πρὸ ἡμέρων γ' τῶν Φηραλίων), Lintott (1981, 192), for instance, dates both laws c.101 and identifies the author of the *lex Porcia* as the son of M. Porcius Cato (cos. 118). However, Ferrary (1998, 154–7) argues that the reference to the Ferialia cannot be used in this way, and instead attributes the law to the consul of 118 himself in around 121. This seems preferable, especially as no praetorship is attested for the consul's son (cf. Gell. 13.20.6–17). Ferrary's date is accepted in RS 1.260 and by Daubner (2007, 16–17). Recently, Drogula (2011, 91–2 and 2015, 281–2) has defended the later date.

¹⁷ Cf. Drogula 2015, 281–9.

¹⁸ *Lex de provinciis praetoriis*, Cnidos copy, col. 3, ll. 3–15. See RS 1.236–7 for the date.

¹⁹ The *lex Antonia de Termessibus* (RS no. 19), col. 2, ll. 13–17 prescribes that Roman officials are not to order the citizens of Termessus Maior to give or provide anything, 'except what it is or shall be appropriate for them to give or provide under the *lex Porcia*' (*nisei quod e<o>s ex lege Porcia dare praebere oportet oportebit*). The *lex Antonia* probably dates to 68: RS 1.332.

²⁰ See Lintott 1993, 103 for some possible inclusions.

²¹ A common means of enforcing a statute: see RS 1.21; Lintott 1981, 196–7. The relevant action amounted to a *iudicium publicum* and the fine could be ruinous (Cic. *Verr.* 2.1.155). See n. 19 on the *Lex Antonia*.

²² Cf. Lintott 1981, 194.

²³ Cic. *Pis.* 50; see 'The *lex Julia* and *maiestas*', below. Presumably the *lex Porcia* is among the other *veteres leges* Cicero refers to.

²⁴ Cf. Riggsby 1999, 126, though in my view the process began before Caesar.

²⁵ Ferrary 1998, 154–7. The law might then be seen as competing with C. Gracchus' legislation. Daubner (2007, 19) makes the plausible suggestion that the *lex Porcia* was prompted by the creation of the province of Asia but, rather than being designed as a complement to the Gracchan programme, represents a Porcian family tradition of protecting the allies. For a different view, see Drogula (2011).

THE *LEX JULIA DE PECUNIIS REPETUNDIS*

To a great extent the *lex Julia* reproduced earlier law. The basic format and function of the court were unchanged, and we know that the *quo ea pecunia pervenerit* clause, for instance, was carried over word for word from the *lex Cornelia* and the *lex Servilia* (Cic. *Rab. Post.* 9). The provision on judicial bribery was retained (*dig.* 48.11.3, 48.11.7.1), and the rule prohibiting persons expelled from the senate from serving as jurors or witnesses goes back to the law of the Tabula Bembina (*dig.* 1.9.2; *lex rep.* ll. 9–11).

Other elements were new, or new to the *lex repetundarum*. The prohibition on senators owning ships derived from a *lex Claudia* of 218.²⁶ In 70 Cicero described it as an ancient and dead law (*Verr.* 2.5.45), but in 59 it was included in the *lex Julia*.²⁷ Account-keeping requirements, on the other hand, went beyond previous law and practice.²⁸ The *lex Julia* required that accounts be deposited in two cities in the province as well as the *aerarium*, which meant, in addition, that accounts had to be finalized before the governor returned to Rome and without conferral between a governor and his quaestor; neither could accounts be amended once deposited.²⁹ No doubt these changes were intended to increase accountability and to avoid the sort of situation Cato experienced in 56 when (despite the *lex Julia*) he lost his accounts on the voyage from Cyprus to Rome.³⁰

The *lex Julia* also seems to have introduced procedural changes intended to facilitate fairer trials. The size of the prosecutor's retinue during his *inquisitio* in the province was limited; this change most obviously benefited the defendant.³¹ Regulations on the delivery and sealing of evidence known from *Pro Flacco* should perhaps also be assigned to the *lex Julia*: Flaccus was prosecuted under the *lex Cornelia*, but the explanation for the diligent prosecutor D. Laelius' apparent non-compliance with these rules may be that Cicero is describing the new law.³² Lintott also attributes to the *lex Julia* an increase in the number of witnesses who could be summoned from forty-eight to 120,³³ but probably the change was earlier: Alexander's list of

²⁶ Liv. 21.63.3–4; RS 2.770. ²⁷ *Dig.* 50.5.3; cf. Paul. *sent.* Leiden fr. §3.

²⁸ Cic. *fam.* 5.20.1 SB 128. Cf. Nicolet 1996, 17.

²⁹ Cic. *fam.* 5.20 SB 128 *passim*. The requirement that details of *beneficia* to the governor's staff be submitted within thirty days of the accounts was probably also part of the *lex Julia* (cf. *Att.* 6.7.2 SB 120).

³⁰ Plut. *Cat. Min.* 38.2–3; Dio 39.23.3. See chapter 3, 'Cato in Cyprus'.

³¹ Cicero (*Flacc.* 13) suggests that the limitation was introduced in response to the overly zealous tactics of Flaccus' prosecutor. Vatinius' law of 59 providing for the alternate challenging of jurors was also regarded as favourable to the defence (*Vat.* 27).

³² Cic. *Flacc.* 21; Oost 1956, 27–8; Lintott 1981, 203–4.

³³ Lintott (1981, 203); Val. Max. 8.1.abs.10; *lex rep.* ll. 31–5.

witnesses called, or due to be called, against Verres in 70 includes more than sixty named individuals.³⁴

In addition, Cicero states that many provisions in the *lex Julia* were more strictly and severely drafted than in ancient laws.³⁵ In part this seems to have consisted in the detailed prescription of a governor's entitlements. As proconsul in Cilicia, for instance, Cicero knew exactly what hay, wood, and other provisions he and his staff were entitled to requisition and what had to be paid for;³⁶ the law also prohibited a governor from accepting *aurum coronarium* unless he had been voted a triumph, and there was apparently some limitation on the amount of booty a commander was allowed to claim.³⁷ The inclusion of detailed positive regulations was not in itself new. As we have seen, rules of the same type are found in Sulla's extortion law, and it may be that specific provisions attested only for Caesar's law existed already in earlier laws. However, it is likely the *lex Julia* closed the sort of loophole identified by Cicero in the *Verrines* (2.2.141–3), tightened requirements, and incorporated more systematically rules derived from other laws and *senatus consulta*.³⁸ A high level of specificity will have aided enforcement;³⁹ probably it also attempted to insure against the ethical shortcomings of individual magistrates by leaving as little as possible to the governor's discretion.⁴⁰ The hypothetical debate in the *Verrines* over the governor's maintenance allowance (2.3.210–17) highlights how much standards of 'reasonableness' might differ between individuals.

On the other hand, extortion itself was defined broadly, as in earlier laws.⁴¹ According to the *Digest* (48.11.6.2), the *lex Julia* even prohibited magistrates from accepting gifts, with very narrow exceptions. The younger Pliny attests the same rule, which applied strictly to all gifts, however trivial and genuinely given.⁴² The *Digest* passage as it stands reflects later extension,⁴³ but a similar

³⁴ Alexander 2002, app. 2 (not including legations and other unnamed persons).

³⁵ Cic. *Rab. Post.* 8: *multa sunt severius scripta quam in antiquis legibus et sanctius*. Cf. *Vat.* 29; Lintott 1981, 202; Sherwin-White 1949, 12–3, 25.

³⁶ Cic. *Att.* 5.16.3 SB 109 and 5.21.5 SB 114 with Linderski 2007, 316–18.

³⁷ See Cic. *Pis.* 90; Churchill 1999, 113.

³⁸ Such as the *lex Porcia* and the *lex Claudia*. The reference to the *lex Porcia* in the *lex Antonia de Termessibus* suggests that it, rather than Sulla's extortion law, remained the definitive statute on provincial requisitions c.68. Caesar's law may have supplanted it, but it is also possible the *lex Porcia* continued to operate alongside the *lex repetundarum*. Cf. Cic. *fam.* 3.10.6 SB 73, 3.8.3 SB 70 for a reference in 50 to a *lex Cornelia* regulating expenses for provincial delegations, though this may have been specific to the province of Asia (see Santangelo 2007a, 119–20).

³⁹ Cf. Lintott 1981, 202; Sherwin-White 1949, 12–3, 25; Drogula 2015, 283.

⁴⁰ Cf. Cic. *inv.* 2.139 for the notion that greater specificity on the part of the legislator could compensate for the failings of the men tasked with applying the law.

⁴¹ See e.g. Cic. *Scaur.* 18: *poposcit, imperavit, eripuit, coegit* ('he demanded, he requisitioned, he seized, he extorted'). Cf. *lex rep.* ll. 2–3 and Cic. *Verr.* 2.2.143.

⁴² Plin. *ep.* 4.9.6; cf. 6–9, 17.

⁴³ This is clear from the list of persons liable at *dig.* 48.11.1; see RS 2.769.

rule probably stood in the republican statute.⁴⁴ Cicero indicates that Verres had broken the *lex Cornelia* by accepting the gift of a ship from the people of Messina;⁴⁵ the only defence possible (however inadequate) was that he had paid for the ship with his own money (*Verr.* 2.5.45). Elsewhere Cicero lists the receipt of horses and other gifts among the ‘quotidian crimes’ (*cottidiana crimina*) of Verres’ legateship in Asia (2.1.49), and the close regulation of contributions for statues and temples also suggests that unconditional gifts were not permitted, in particular the rule that contributions could not be turned to private purposes (2.2.143). We may conclude that both the *lex Cornelia* and the *lex Julia* prohibited or severely restricted the acceptance of gifts.⁴⁶ There were good reasons for doing so, since in practice it might be impossible to establish whether or not a gift was truly voluntary.⁴⁷ According to Cicero, an old rule forbade even certain purchases in the provinces, lest a magistrate use his position to force a sale at his own price and on his own terms.⁴⁸ Indeed, it is likely the law prohibited the acceptance of money or goods by any means, unless specified otherwise.⁴⁹

The *lex Julia* and *maiestas*

Cicero’s *In Pisonem* lists a number of offences that fell under both Caesar’s extortion law and Sulla’s law on *maiestas*:

mitto exire de provincia, educere exercitum, bellum sua sponte gerere, in regnum iniussu populi Romani aut senatus accedere, quae cum plurimae leges veteres, tum *lex Cornelia maiestatis*, *Iulia* de pecuniis repetundis planissime vetat... (Cic. *Pis.* 50)

I pass over his leaving his province, leading his army out of it, making war of his own accord, approaching a kingdom without the orders of the Roman people or

⁴⁴ Cf. e.g. Lintott 1981, 203; Brunt 1961, 191.

⁴⁵ Cic. *Verr.* 2.5.59: *accepisti a Mamertinis navem contra leges* (‘you accepted a ship from the Mamertines contrary to the law’); cf. 2.5.44. The first passage looks like a formal charge; see Cic. *Flacc.* 86 for the phrase *accipere contra leges*.

⁴⁶ Cf. *dig.* 1.18.18 for a plebiscite, possibly an extortion law, which forbade a governor from accepting gifts other than a few days’ worth of food and drink (cf. Lintott 1981, 176 n. 63, 195 n. 130).

⁴⁷ See e.g. Cic. *Scaur.* 19. The same rationale lay behind the Sicilians’ petition that they should not be allowed to promise statues until a governor had left the province, so that men like Verres would no longer be able to rely on the defence that contributions had been made voluntarily (Cic. *Verr.* 2.2.146, 8). Prag (2013, 282–3) suggests a connection between this petition and a similar rule in the *lex Julia* (Paul. *sent.* Leiden fr. §2; cf. Dio 56.25.6).

⁴⁸ Cic. *Verr.* 2.4.10; cf. 8–9.

⁴⁹ So Brunt 1961, 191. This was certainly the case with contributions for temples and monuments: *excipere* in Cic. *Q. fr.* 1.1.26 SB 1 indicates that the rule was, in form, an exception to a general prohibition on taking money. Cf. Lintott 1981, 195 n. 130; Sherwin-White 1982, 20.

the senate—things which not only many ancient laws but also the *lex Cornelia maiestatis* and the *lex Julia de pecuniis repetundis* forbid most plainly.

This duplication had significant advantages in terms of enforcement, as it allowed more than one prosecution to be brought on essentially the same facts.⁵⁰ Thus in 54, for instance, Gabinius was acquitted of *maiestas* but convicted of *repetundae* in connection with the restoration of Ptolemy Auletes.⁵¹ Probably he would have been charged with extortion first if Cato, *praetor repetundis* in 54, had not been ill at the relevant time.⁵²

The *quaestio repetundarum* offered advantages over the *quaestio maiestatis*. Juries seem to have been more willing to convict for extortion, perhaps because it was considered a less serious charge,⁵³ and the concrete element of money received must often have been easier to prove than the ideological (and therefore subjective) criterion of *maiestas minuta*.⁵⁴ Moreover, actions such as leaving the province or making war without permission would be punishable under the extortion law whether or not those actions had diminished the *maiestas* of the Roman people. This was potentially useful against successful generals whose unauthorized actions might be seen to have *increased* rather than diminished Rome's *maiestas*.⁵⁵ Caesar comes to mind.⁵⁶ On the other hand, Cicero remarks on the dangerous vagueness of *maiestas* compared to a charge like *ambitus*, which was essentially a question of fact.⁵⁷

Overlap between *repetundae* and *maiestas* was not new in 59. In the *Verrines*, Cicero refers to several actions which gave rise to both *repetundae* and *maiestas* charges, such as removing the statue of Mercury from Tyndaris (2.4.88) and taking a bribe to spare a pirate captain (2.5.79).⁵⁸ In the latter case, Cicero explicitly threatens Verres with a second prosecution. Further evidence comes from the *Pro Cluentio* of 66, where Cicero remarks that 'very

⁵⁰ Repeat prosecution for the same crime under the same statute seems to have been prohibited (Alexander 1982, 142–53), but the same actions could be prosecuted as both *maiestas* and *repetundae*, with the addition of a pecuniary element (cf. Bauman 1967, 85–6).

⁵¹ See chapter 5, 'The date of Rabirius' trial'.

⁵² Cic. *Q. fr.* 3.1.15 SB 21. Cic. *Clu.* 116 (cited below in the text) indicates that *repetundae* prosecution normally preceded *maiestas*. Cf. Steel 2013a, 127.

⁵³ Dio 39.63.2 gives this as the reason why Gabinius spent less at his second trial than at the first; cf. 39.62.3.

⁵⁴ Cf. Bauman 1967, 86–7; Cic. *fam.* 3.11.2 SB 74. Presumably the defence *rei publicae causa* (Cic. *Rab. Post.* 20) was also harder to establish where money was involved.

⁵⁵ An accepted defence against *maiestas* charges: see e.g. Cic. *part. or.* 105; *fam.* 3.11.2 SB 74; Bauman 1967, 51–2; Seager 2001, 146–7, 150; Arena 2012, 134.

⁵⁶ Cf. under 'The political and policy context of the *lex Julia*', below.

⁵⁷ Cic. *fam.* 3.11.2 SB 74; cf. Seager 2001, 150.

⁵⁸ Cf. Bauman 1967, 79–80; Seager 2001, 150–2.

many men have been acquitted of *maiestas* for whom, when previously convicted of extortion, charges had been valued at the grade of *maiestas*' (*maiestatis absoluti sunt permulti quibus damnatis de pecuniis repetundis lites maiestatis essent aestimatae*, §116). Whatever the exact meaning of the last phrase,⁵⁹ this passage not only confirms the overlap between Sulla's laws but shows that serial prosecution for *repetundae* and *maiestas* was common practice.

Whether Sulla's extortion law also included charges such as leaving one's province without authorization, we cannot be certain. The *In Pisonem* passage naturally names only the most recent statute of each type; indeed, Cicero had special reason to highlight the *lex Julia*, since Piso was Caesar's father-in-law. But Cicero also mentions *plurimae leges veteres*, which might well include Sulla's extortion law.⁶⁰ Neither does the pecuniary focus of the *Verrines* tell us much,⁶¹ since there was no question of Verres having left his province or made unauthorized war, and in fact Cicero does allege other forms of *maiestas minuta* (see above). It is certainly plausible that Sulla, in his reorganization of Roman criminal law, replicated key provisions in multiple statutes.⁶² As we have seen, the prohibition on leaving one's province was itself taken from the *lex Porcia*, which remained in force alongside Sulla's laws until at least the 60s.⁶³

Other considerations lend general support to the idea. Cicero's description of Caesar's law as *severius scripta... et sanctius* than its predecessors (*Rab. Post.* 8) might suggest that it did not make fundamental changes to the *lex repetundarum*.⁶⁴ Sulla's extortion law, on the other hand, was part of a sweeping reform of the Roman constitution. His *maiestas* law, similarly to the *lex Julia*, can be regarded as a code regulating magistrates in the provinces.⁶⁵ It would certainly fit with Sulla's programme if his *lex repetundarum* also incorporated key provisions of his *lex maiestatis*.

⁵⁹ The *quaestio repetundarum* will not literally have delivered a verdict of *maiestas* (Bauman 1967, 86), but the phrase is intelligible shorthand for charges found in both statutes (cf. Sherwin-White 1949, 11; Lintott 1981, 200). My translation adapts Lintott's paraphrase.

⁶⁰ So Henderson 1951, 78.

⁶¹ Alexander (2002, 56) inclines to identify Caesar as the innovator on this basis; cf. Sherwin-White 1952, 53–5.

⁶² See n. 13 on judicial bribery, punishable under both Sulla's extortion law and the *lex de sicariis et veneficiis*. Cic. *Pis.* 50 gives the impression that duplication was common.

⁶³ *Lex de provinciis praetoriis*, Cnidos copy, col. 3, ll. 3–15. The *lex Porcia* evidently was still in force when the *lex Antonia de Termessibus* was passed in (probably) 68: see RS 1.332. Seager (2001, 144) argues that clause was also included in the *lex Appuleia de maiestate*.

⁶⁴ Cf. Henderson 1951, 75 n. 29.

⁶⁵ So Brennan 2000, 399, 618. Cf. e.g. Bauman 1967, 69–83; Gruen 1968, 259–60; Seager 2001. The *lex Cornelia de maiestate* remained in force to the end of the republic (Cicero cites it in *51: fam.* 3.6.3 SB 69).

Capital penalties

There is broad agreement that capital penalties were available under the *lex Julia* in certain circumstances.⁶⁶ This seems required in particular by the SC *Calvisianum* of 4, which prescribed a simplified form of procedure for non-capital cases of extortion.⁶⁷ In addition, Cicero (*Rab. Post.* 11) describes the jurors in the *quaestio repetundarum* as having the power ‘to remove from the state’ (*tollere e civitate*) whomever they wished. Probably capital penalties applied to acts that also amounted to *maiestas* or other capital crimes.⁶⁸

Whether capital penalties also applied under Sulla’s extortion law (or earlier) is less clear. Certainly Cicero speaks as though exile was the inevitable consequence of conviction,⁶⁹ but exile could be ‘voluntary’ or perhaps a consequence of heavy financial penalties.⁷⁰ Modern opinion is divided: Sherwin-White, for instance, argues that *repetundae* was never capital before the *lex Julia*; Lintott ascribes the innovation to Sulla or Glaucia; and Henderson suggests that capital penalties were probably always available.⁷¹

Again, *Pro Cluentio* provides important evidence. Cicero there uses the phrases *lis maiestatis aestimare* and *lis capitis aestimare* interchangeably to describe a possible outcome of *litis aestimatio* in a *repetundae* trial (§116). This seems to indicate that capital penalties were available, and Lintott (1981, 1999) urges this interpretation. However, Cicero also insists that *litis aestimatio* was not a judicial decision, citing the case of P. Septimius Scaevola. Scaevola was convicted of extortion, probably for offences in southern Italy, but in *litis aestimatio* the prosecution strove to have a capital penalty assessed on the grounds that he had accepted bribes as juror in the trial of Oppianicus.⁷² ‘If this proceeding had had the weight of a judicial decision’, says Cicero, ‘Scaevola would afterwards have been accused, either by the same or other enemies, under this same law’, that is, the *lex Cornelia de sicariis et veneficiis*, under which Cluentius was tried.⁷³

Sherwin-White argues that *lis capitis* means not a capital penalty but an opinion, ‘tacked on’ to the verdict by the jurors, that the defendant was

⁶⁶ See e.g. Sherwin-White 1949, 17; Brunt 1988, 220 n. 71; Lintott 1981, 202, 206; RS 2.770.

⁶⁷ SC *Calvisianum* (RDGE no. 31) ll. 97–103. Cf. Sherwin-White 1949, 16–17; Lintott 1981, 206.

⁶⁸ Cf. Lintott 1981, 200; RS 2.770. See below on *paricidium* as an example of a crime for which a special penalty applied under a more general statute.

⁶⁹ e.g. Cic. *Font.* 42–3; *Flacc.* 106.

⁷⁰ According to Dio fr. 97.2, Rutilius Rufus (convicted under Glaucia’s law) went into exile ‘under no compulsion’ (*μηδενὸς ἀναγκάζοντος*); on the other hand, Val. Max. 6.4.4 reports that Rutilius later chose to remain in exile so as not to break the law (*ne quid adversus leges faceret*). Cf. TLRR no. 94.

⁷¹ Sherwin-White 1949, 17; Lintott 1981, 198–202; cf. 1993, 104–5; Henderson 1951, 73.

⁷² Cic. *Clu.* 115–16. Cf. e.g. Peterson 1899, 198; Lintott 1981, 198–9; TLRR no. 172.

⁷³ Cic. *Clu.* 116: *Quae res si rei iudicatae pondus habuisset, ille postea vel isdem vel alii inimici reus hac lege ipsa factus esset.*

also guilty of a capital crime.⁷⁴ No capital penalty would apply unless the defendant were subsequently charged and convicted in a capital court. He also objects to the implication that persons already in exile might stand trial on further capital charges (1949, 11). But, as far as we know, there was no bar to such proceedings;⁷⁵ moreover, it is hard to see the point of a *lis capitis* as Sherwin-White understands it. Why take such trouble to procure the jurors' non-binding opinion rather than bring capital charges in another court?⁷⁶

Another possibility is that the particular *lites* Cicero alludes to were not binding because no capital charges had been brought formally in the trial proper.⁷⁷ Cicero's point, after all, is the carelessness of jurors in *litis aestimatio*.⁷⁸ Although the prosecutor was not normally required to state in advance the particular charges he would make at trial, special rules applied for some crimes.⁷⁹ The penalty for *parricidium*, for example, was available only if the charge was specified in the *subscriptio*.⁸⁰ Capital charges under the *lex repetundarum* might have entailed a similar procedure: the *SC Calvisianum* (l. 99) seems to require a determination in advance as to whether charges were capital or not.

Finally, it is worth noting Cicero's description of the gradually increasing strictness of extortion laws and the comparative severity of the *lex Julia*.⁸¹ This weighs against the sudden introduction of capital penalties in 59.⁸² On the other hand, in view of the nature of Sulla's programme and our lack of information about the passage of his extortion law, it is quite possible that capital penalties were new in 81. The matter must remain uncertain, however.

A perfect law?

Cicero describes the *lex Julia* as an ideal law—*lex iustissima atque optima*.⁸³ It clarified and codified a wide variety of rules pertaining to the government of

⁷⁴ Sherwin-White 1949, 11; 1952, 54. Cf. Ewins 1960, 99; Linderski 2007, 121.

⁷⁵ Persons absent *rei publicae causa* were protected from prosecution but not, apparently, others: see e.g. Val. Max. 3.7.9; Greenidge 1901, 461–3, 473 (it is not clear why the senate objected to the prosecution in absence of Sthenius of Thermae). Cf. Lintott 1981, 198–9, who suggests that special rules may have applied to *maiestas*.

⁷⁶ For concurrent charges, see e.g. Cic. *Q. fr.* 3.1.15 SB 21 (Gabinus) and Asc. 38–9C (Milo).

⁷⁷ *Aliis criminibus* (Cic. *Clu.* 116) might indicate that Scaevola had been convicted on non-capital charges, but capital charges were (invalidly) adduced in *litis aestimatio*.

⁷⁸ Cf. Cic. *Clu.* 115.

⁷⁹ See Alexander 1982, 153–65.

⁸⁰ Cic. *inv.* 2.58; Alexander 1982, 159. *Parricidium* was tried in the court *de sicariis*. Cf. Asc. 55C for a special *subscriptio* under the *lex Plautia de vi*.

⁸¹ Cic. *off.* 2.75: *tot leges et proximae quaeque duriores* ('so many laws, each more severe than the previous'); *Rab. Post.* 8 (above, n. 35).

⁸² Cf. Henderson 1951, 75 n. 29.

⁸³ Cic. *Pis.* 37. Cf. *Sest.* 135 (*optima lex*); *Vat.* 29 (*lex . . . de pecuniis repetundis acerrima*). The law is much praised in modern scholarship as well, e.g. Oost 1956, 24; Taylor 1949, 134; Gruen 2009, 33.

the provinces, many of which did not concern *res repetundae* as such but originated in *leges de provinciis, de maiestate*, and *senatus consulta*. It was also very long.⁸⁴ Thus, while the *lex Julia* may not have been as innovative as often thought, it was stricter and more comprehensive than its predecessors, and would have offered very effective protection to Rome's allies if it had been obeyed and enforced. It is significant that the law was never superseded, though it was extended and modified in various ways.⁸⁵

One of the earliest changes suggests that the *lex repetundarum* had become, in a way, too perfect. The *SC Calvisianum* of 4 introduced an alternative, essentially recuperative process for non-capital cases of extortion.⁸⁶ It was specifically designed to be more accessible to allies wanting simply to recover their money.⁸⁷ This change reflects how far the *lex repetundarum* had grown beyond its original purpose, but Riggsby goes too far when he states that the *lex Julia* was 'directed at the Roman power structure and not at Roman/alien interaction'.⁸⁸ It is hard to see how limitations on the requisition of hay and wood, for example, were of concern to the Roman state. The problem that the senate sought to remedy in 4 was procedural and practical, not a deficiency in the content of the law.

A more obvious shortcoming of the republican law, in terms of protecting provincials, was that it applied only to senators and not to the various sub-senatorial members of a governor's cohort. This problem, and some attempts to remedy it, will be discussed in the next chapter.

THE POLITICAL AND POLICY CONTEXT OF THE *LEX JULIA*

The *lex Julia de pecuniis repetundis* passed without opposition (Dio 38.7.5–6). Even Cato objected only to the name of the law, not its content.⁸⁹ It seems to

⁸⁴ Cael. *fam.* 8.8.3 SB 84 cites the 101st clause of the law; cf. Sherwin-White 1949, 14; Lintott 1993, 105.

⁸⁵ Cf. Brennan 2000, 400. For instance, *saevitia* (cruelty) appears as a ground for prosecution during the principate (Tac. *ann.* 3.67, 13.52; Sherwin-White 1949, 17–24; Lintott 1981, 205) and various provisions found in the *Digest* reflect later extension (see RS 2.769).

⁸⁶ The remedy was simple restitution (*SC Calvisianum* l. 133).

⁸⁷ *SC Calvisianum* ll. 93–6. The decree notes that proceeding under the *lex repetundarum* could be 'extremely burdensome and distasteful' (*βαρυτάτου καὶ ἀηδεστάτου*) for both claimants and witnesses.

⁸⁸ Riggsby 1999, 124, but compare 128.

⁸⁹ Dio 38.7.6: οὐδὲ γὰρ οὐδ' ὁ Κάτων ἀντείπέ τι, καίπερ ἐν τῇ στρατηγίᾳ, ἣν μετὰ ταῦτα οὐ πολλῶ ὕστερον ἔσχε, μηδαμοῦ τῆς τῶν νόμων αὐτοῦ προσηγορίας, ὡς καὶ Ἰουλίῳ ἐπικαλουμένῳ, ἐπιμνησθεῖς· τὰ γὰρ δικαστήρια κατ' αὐτοὺς ἀποκληρῶν τὸ ὄνομα αὐτῶν γελοιότατα ἀπεκρύπτετο. ('Even Cato did not speak against this, although in his praetorship, which he held not long after these events, he would never mention the names of [Caesar's] laws, because they were called

have been a largely uncontentious, even collaborative measure, possibly in the works for some time beforehand. Gruen (1974, 242) suggests that many senators may have been involved in the drafting. Certainly it should not be seen as the product of Caesar's unaided efforts, as some scholars have implied.⁹⁰

Indeed, there is reason to think Caesar was not the instigator. A new extortion law was a somewhat surprising move for Caesar in 59. In 61 he had left for Spain heavily in debt and his conduct in the province had raised questions, reflected in Suetonius' critical account.⁹¹ A *sociis pecunias accepit emendicatas* in particular suggests *repetundae*, and it is not unlikely that extortion charges had been mooted in 60. Furthermore, Caesar would soon set out for Gaul,⁹² whence he was threatened with prosecution for *maiestas* and potentially also under his own extortion law, since the two overlapped.⁹³ This is the more significant if Caesar's law was the first to bring *maiestas*-type offences within the *lex repetundarum*. Other evidence, too, suggests that protecting foreigners was not Caesar's top priority. Besides the mass killing and enslavement he was responsible for in Gaul,⁹⁴ Caesar resolved the Asian tax contract dispute of 61–60 in favour of the *publicani*;⁹⁵ as dictator he turned

Julian: for, while he applied them in allotting the courts, he most ludicrously repressed their names.') Since Cato was *praetor repetundis*, the *lex Julia de pecuniis repetundis* must be meant. Cf. 37.51.3, where Dio says that Metellus Nepos' law abolishing *portoria* was acceptable to all, but the senators wished to erase his name and enter another one instead.

⁹⁰ e.g. Oost 1956, 24; Gelzer 1968, 93–4.

⁹¹ Suet. *Iul.* 54.1: *abstinentiam neque in imperiis neque in magistratibus praestitit. ut enim quidam monumentis suis testati sunt, in Hispania pro consule et a sociis pecunias accepit emendicatas in auxilium aeris alieni et Lusitanorum quaedam oppida, quanquam nec imperata detrectarent et advenienti portas patefacere, diripuit hostiliter.* ('He showed restraint neither in his commands nor his magistracies. For, as certain men have attested in their memoirs, as proconsul in Spain he not only accepted money solicited from the allies as assistance with his debts, but also plundered some towns of the Lusitanians as if they were enemies, although they had not refused his orders and had opened their gates to him as he approached.') Cf. App. *BC* 2.8; Dio 37.52. Plut. *Caes.* 12.2–4, by contrast, reports that Caesar implemented debt reduction measures in Spain and left the province in high esteem, though he also notes Caesar's own enormous debts at the time of his departure for the province (11.1–2).

⁹² Caesar will have intended from the outset to secure a major provincial command; he had concrete expectations by the beginning of May, whether or not the *lex Vatinia* creating the Gallic command had yet been proposed (Cic. *Att.* 2.16.2 SB 36 with Shackleton Bailey 1965–70, 1.408).

⁹³ Cato repeatedly threatened to prosecute Caesar (Suet. *Iul.* 30.3); ἐπιβολή in Plut. *Cat. Min.* 49.1 probably points to a *maiestas* charge (Bauman 1967, 229 n. 99a). Cf. Bauman 1967, ch. 6; Gelzer 1968, 104 n. 3; Morrell 2015a, 80–1 n. 54. We do not hear of *repetundae* allegations as such, but it was not without reason that Badian termed Caesar 'the greatest brigand of them all' (1968, 89), and Caesar's defence of his *innocentia* (BG 1.40.12–13) might imply that questions had been asked. Riggsby (2006, 247 n. 77) suggests that Caesar breached his own law by leaving his province without authorization.

⁹⁴ See e.g. Plin. *NH* 7.92–3 and other references in chapter 2, 'Pompey's triumph'.

⁹⁵ Albeit with a warning for the future: Suet. *Iul.* 20.3.

a blind eye to the extortions of his associates;⁹⁶ and his *lex de provinciis* of 46 seems almost at odds with the spirit of the *lex repetundarum*, since a governor limited to one or two years in a province would be more likely to attempt to extract a quick profit.⁹⁷ Alongside all this we must weigh the extortion law of 59 and salutary taxation reforms in Asia and Judaea.⁹⁸ Still, Caesar appears a somewhat unlikely reformer.

By contrast, there were cogent reasons for Caesar's ally Pompey to desire a new extortion law in 59. As I argued in chapters 1 and 2, Pompey had a longstanding interest in the proper governance of Rome's empire. The *Verrines*—composed with Pompey's backing—had drawn attention to various shortcomings in Sulla's extortion law. A new *lex repetundarum* was an opportunity to remedy them. Moreover, Pompey's eastern campaigns had given him a new motive: the protection of his administrative arrangements and innumerable new clients.⁹⁹ The *lex Julia*, I suggest, should be understood in conjunction with Pompey's ongoing programme of provincial reform.

Pompey and the trials of 59

In January 61, shortly after his return from the east and even before he had reached Rome, Pompey made known his desire to have C. Antonius (cos. 63) recalled from Macedonia (Cic. *Att.* 1.12.1 SB 12). It is clear from Cicero's letters that Antonius faced prosecution, most likely for *repetundae*.¹⁰⁰ Probably Pompey was behind the prosecution as well. Already in 70 Antonius had been expelled from the senate by Pompeian censors on the grounds (*inter alia*) that he had plundered the allies.¹⁰¹ When he eventually faced trial in 59, one of the prosecutors seems to have been Pompey's supporter L. Caninius Gallus (tr. pl. 56).¹⁰² And, in the same year, we find Pompey backing the prosecution of L. Valerius Flaccus for extortion in Asia.¹⁰³

⁹⁶ According to Dio, Caesar overlooked M. Aemilius Lepidus' depredations (43.1.2–3) and let Sallust off extortion charges (43.9.2–3), perhaps in exchange for a share in the profits (cf. 43.47.4; *inv. Sall.* 19; Syme 1964, 39). Suet. *Iul.* 43.1, however, states that Caesar expelled from the senate men convicted of extortion.

⁹⁷ See e.g. Joseph. *AJ* 18.172–7; Adcock 1932, 698; Yavetz 1983, 108–9; Cobban 1935, 77.

⁹⁸ Asia: App. *BC* 5.4; Dio 42.6.3; cf. below under 'Cato and the *lex Julia*'. Judaea: Joseph. *AJ* 14.185–216. Note also Caesar's critical remarks on Metellus Scipio's exactions in Syria (*BC* 3.31–2).

⁹⁹ We might compare the relationship between C. Gracchus' arrangements for the revenues of Asia and the Gracchan *lex repetundarum* (see e.g. Millar 2002, 155–6); cf. n. 25, above, on the *lex Porcia*.

¹⁰⁰ Cic. *Att.* 1.12.1–2 SB 12; *fam.* 5.5.3 SB 5. See below in this section.

¹⁰¹ Asc. 84C. See chapter 1, 'The censorship'.

¹⁰² Cf. Gruen 1973, 305, 307; *TLRR* nos 241, 280. I identify Caninius with Cato's upright quaestor in Cyprus (see chapter 3, 'Cato in Cyprus').

¹⁰³ Cic. *Flacc.* 14. Flaccus' trial is discussed a little further on.

Although the trial in 59 was politicized, the evidence suggests that Pompey's actions in 61 were prompted by Antonius' conduct in Macedonia. Cicero's attitude is revealing: in 59 he regarded the attack on Antonius as an attack on himself and his actions as consul,¹⁰⁴ but there is no hint of this in 61. He was prepared to consider Antonius' recall a positive turn of events (*Att.* 1.12.1 SB 12) and, in the same letter in which he reports Pompey's plans, he remarks on the strength of Pompey's friendship towards him (§3). For Cicero, there seems to have been little doubt that Antonius was guilty.¹⁰⁵ In December 62 Cicero had been obliged to defend him in the senate and wrote hinting at a future prosecution.¹⁰⁶ In 61 he remarked that he could not defend Antonius without loss of credit, nor would wish to (*Att.* 1.12.1 SB 12); he was also disturbed by reports that Antonius was extorting money (*cogendis pecuniis*) in both their names (§2). Cicero's choice of words here echoes the language of the *lex repetundarum*.¹⁰⁷ Indeed, after Antonius had gone into exile, Cicero almost conceded his guilt.¹⁰⁸ Dio provides some detail: Antonius had plundered subject territory and allies and suffered serious reverses in consequence.¹⁰⁹

Unfortunately, we do not know what Antonius was convicted of. *Repetundae*, *maiestas*, and *vis* all have advocates among modern scholars.¹¹⁰ *Repetundae* is the only charge explicitly attested in an ancient source (Schol. Bob. 94St) and would fit well with Antonius' character and our evidence of his activities in Macedonia. It was also the most obvious charge to bring against a returning governor, and the charge Cicero anticipated in 61. Alexander, however, rejects *repetundae* on the grounds that Cn. Lentulus Clodianus presided over Antonius' trial (Cic. *Vat.* 27), whereas a passage in *Pro Flacco* (85) suggests that T. Vettius Sabinus had the extortion court for 59.¹¹¹ But the passage shows only that Vettius was (probably) a praetor in 59. He may simply have been one of the jurors, like L. Lucullus, named in the same passage.¹¹²

¹⁰⁴ Cic. *Flacc.* 95; *dom.* 41; Dio 38.10.1, 4; Gruen 1973, 304, 306–7.

¹⁰⁵ Cicero can have expected no less when he gave up Macedonia to his colleague: see e.g. Cic. *Pis.* 5; Gruen 1973, 302. Neither was Cicero above profiting from Antonius' activities (in the form of a loan, though Antonius was rather slow in delivering: Cic. *Att.* 1.12.1 SB 12).

¹⁰⁶ Cic. *fam.* 5.6.3 SB 4, 5.5.3 SB 5. See Shackleton Bailey 1977, 1.282–3 on the dating of these letters.

¹⁰⁷ e.g. *lex rep.* ll. 2–3; Cic. *Verr.* 2.2.143; *Scaur.* 18.

¹⁰⁸ Cic. *Flacc.* 95: *habuit quandam ille infamiam suam* ('he had a certain ill repute of his own'). Antonius seems to have behaved no better in exile (Strab. 10.2.13).

¹⁰⁹ Dio 38.10.1–3. Cf. e.g. Gruen 1973, 302.

¹¹⁰ See Austin 1960, 159 (*maiestas*), Gruen 1973, 307–8 (*repetundae*), and Alexander *TLRR* no. 241 (*maiestas* or *vis*), with further references. *Vis* is unlikely. Neither Cicero's statement that Caelius accused Antonius of having violated the *res publica* (*Cael.* 78) nor the parallel between Antonius and Caelius in *Flacc.* 5 requires that Antonius was charged with *vis*, and all other evidence indicates that Antonius' trial arose from his actions in Macedonia. Cf. Austin 1960, 158–9.

¹¹¹ *TLRR* no. 241. Cf. *MRR* 2.189, 3.219.

¹¹² Cic. *Flacc.* 85. Vettius does seem to have been praetor in 59, due to govern Africa in 58, but praetors in office evidently could serve as jurors in other courts (see Brennan 2000, 416). Neither

Recently, Brennan (2000, 416) has argued for *repetundae* and that Vettius was a juror, or else that there was more than one praetor active in the *quaestio repetundarum* in 59.¹¹³

Another question concerns the relevance of the Catilinarian conspiracy. In *Pro Flacco*, Cicero intimates that Antonius had been convicted because of his role in crushing Catiline;¹¹⁴ elsewhere, however, he indicates that suspicion of involvement in the conspiracy told against Antonius at his trial.¹¹⁵ Dio (38.10.3) appears to say the same thing, in confused form. It seems reasonably clear that involvement in the conspiracy was not the basis of a formal charge; indeed, the Catilinarian dimension may be largely a red herring introduced by Cicero.¹¹⁶ Nonetheless, the fact that it was raised at all leads Austin to favour *maiestas*, with *repetundae* perhaps ‘a subsection of the accusation’.¹¹⁷ The one preserved fragment of Caelius’ prosecution speech might also suggest *maiestas*.¹¹⁸ It describes Antonius drunk and unable to be roused while the enemy approached, presumably in Macedonia.¹¹⁹ But allegations made at trial are not a reliable guide to the formal charge, since Roman prosecutors typically adduced an array of character evidence and legally irrelevant material (Alexander 1982, 162). Moreover, even under the *lex Cornelia*, *maiestas*-type charges might form part of a *repetundae* trial, as in Verres’ case.

On balance, it seems most likely that Antonius was tried for *repetundae*, though *maiestas* is also possible.¹²⁰ Conceivably he was charged with both, as was Gabinius in 54. Moreover, the charge Antonius actually faced in 59 need not have been the charge Pompey intended in 61 (very likely *repetundae*). In any case, I think it probable that Pompey intended Antonius as an example, as he had Verres in 70, though political factors and Cicero’s preoccupations have clouded the picture. Antonius was a high-profile defendant, and his trial was anticipated with considerable interest.¹²¹ It was not the first time he had been held up as a model of how *not* to behave in the provinces.¹²²

does the reference to Lentulus as *quaesitor* at Cic. *Vat.* 27 preclude that he was *praetor repetundis* (Greenidge 1901, 428–33; Gruen 1973, 308 n. 38).

¹¹³ Cf. Gruen 1973, 308 n. 40; Crawford 1984, 124–5; Rosenstein 1990, 144–6.

¹¹⁴ Cic. *Flacc.* 5, 94–5; cf. Schol. Bob. 94St. ¹¹⁵ Cic. *Cael.* 74. Cf. *Sest.* 8; *Pis.* 5.

¹¹⁶ Cf. Austin 1960, 158–9; Gruen 1973, 307.

¹¹⁷ Austin 1960, 159. A *maiestas* accusation could include both involvement in the conspiracy and Antonius’ conduct in Macedonia. It is not clear what Austin means by a ‘subsection’—perhaps allegations that fell under both the *repetundae* and *maiestas* statutes?

¹¹⁸ Cf. Alexander *TLRR*, 119 n. 2; *dig.* 48.4.4.

¹¹⁹ Quint. *inst.* 4.2.123–4. Rosenstein 1990, 145–6 suggests a reference to Antonius’ battle with the Bastarnae. Cf. Dio 38.10.1–3; Obseq. 61a.

¹²⁰ If *repetundae*, the trial, in progress in April 59 (Cic. *Att.* 2.12.1 SB 30; *dom.* 41), will have been conducted under the *lex Cornelia*. (On the date of the *lex Julia*, see below in this section.)

¹²¹ Cic. *Att.* 2.2.3 SB 22; cf. Cic. *Cael.* 73–4; *Vat.* 27.

¹²² Asc. 84C; see chapter 1, ‘The censorship’.

Later in 59, in about September, L. Valerius Flaccus stood trial for *repetundae*.¹²³ The prosecutor D. Laelius (tr. pl. 54) was a friend of Pompey and he conducted the prosecution with Pompey's backing.¹²⁴ This is clear from the 'rumour' (*sermo*) Cicero says had spread throughout Asia, 'that Cn. Pompeius, because he is a determined enemy of L. Flaccus, had entreated Laelius, a friend of his father and a close connection, to summon Flaccus before this court, and that he had put at Laelius' disposal all his *auctoritas*, influence, resources, and assistance to bring the business to completion'.¹²⁵ If the *subscriptor* L. Balbus (Schol. Bob. 93St) is correctly identified with Pompey's supporter L. Cornelius Balbus, that is further evidence that Pompey instigated the prosecution.¹²⁶ The prosecution's appeals to Pompey's achievements and reputation are also suggestive.¹²⁷ Flaccus' action in preventing the Asian Jews from sending their annual tribute to Jerusalem seems to have been contrasted with the piety and restraint Pompey showed when he captured the Temple (Cic. *Flacc.* 67–8); the prosecution also argued that Flaccus had no need of a fleet owing to Pompey's achievement in the pirate war (28). Probably, in backing the prosecution, Pompey was acting as a patron of Asia, as he had for Sicily in 70.¹²⁸ Cicero notes Pompey's special connection with the province, recently freed by him from the pirates and Mithridates (*Flacc.* 14). Moreover, Pompey had passed through Asia while Flaccus was governor; he must have been aware of the financial difficulties of the cities and of Flaccus' activities.¹²⁹ Indeed, it is possible that Flaccus had served as Pompey's legate during the Mithridatic

¹²³ See Alexander 2002, ch. 3 for detailed discussion of the trial. Cic. *Flacc.* 13 mentions the *lex Julia*, passed or at least promulgated not long beforehand (see n. 136), but Flaccus was almost certainly tried under the *lex Cornelia*: Oost 1956, 27–8. It is possible, however, that the *lex Julia* regulated some procedural aspects of the trial itself. As in modern law, there was no presumption against retroactivity in the case of procedural laws, so judiciary laws, for instance, applied to crimes committed both before and after the passage of the law (e.g. Cic. *Vat.* 27).

¹²⁴ Cic. *Flacc.* 14. Laelius' father had been Pompey's legate in Spain (*MRR* 2.95) and Laelius himself would serve under Pompey in the civil war (*MRR* 2.270, 283). Note also his assistance to Gabinius in 54: Val. Max. 8.1.abs.3.

¹²⁵ Cic. *Flacc.* 14: ... *Cn. Pompeium, quod L. Flacco esset vehementer inimicus, contendisse a Laelio, paterno amico ac pernecessario, ut hunc hoc iudicio arcesseret, omnemque ei suam auctoritatem, gratiam, copias, opes ad hoc negotium conficiendum detulisse*. Cicero adds that this seemed the more likely to the Greeks because Laelius had been on good terms with Flaccus previously. Cf. Alexander 2002, 82–3.

¹²⁶ See Alexander 2002, 81; Gruen 1969, 86.

¹²⁷ This is one element of the prosecution case with which Cicero does not take issue: he, too, adduces Pompey as a model of administrative wisdom and rectitude (*Flacc.* 20, 29, 32, 68). Cf. Alexander 2002, 83; A. J. Marshall 1975, 140.

¹²⁸ Cf. Alexander 2002, 83–4. This is preferable to a political explanation, for which see e.g. Gruen 1969, 86. See chapter 1 on Pompey's role in the prosecution of Verres.

¹²⁹ Cic. *Flacc.* 20 says that the cities had no money; *Q. fr.* 1.1.25 SB 1 describes debt reduction by Flaccus' successor, Q. Cicero (cf. A. J. Marshall 1975, 152). Quite possibly Flaccus had contributed to the financial hardships of the cities; Cicero's reference to the *calumnia* of Quintus' predecessors tends to reflect badly on Flaccus.

campaign, in which case we must think of a falling-out, conceivably occasioned by Flaccus' conduct in Asia.¹³⁰

The prosecution presented a strong case, despite Flaccus' efforts to bribe the *subscriptores* (Cic. *Flacc.* 81–3). Even Cicero notes Laelius' exceptional dedication and thoroughness.¹³¹ Unusually, moreover, Laelius seems to have focused strictly on the facts of the case, rather than adducing extraneous allegations about the defendant's past life and character.¹³² According to Macrobius (*Sat.* 2.1.13), Flaccus was patently guilty, and Cicero's defence speech tends to confirm that. He relies heavily on attacks on witnesses and on Asian Greeks in general,¹³³ while his attempts to refute specific charges are unconvincing. With regard to the fleet levy, for instance, he resorts to the feeble argument that Flaccus committed no offence by failing to account for money he would have been entitled to if he had accounted for it (*Flacc.* 33). Cicero is obliged to concede that his own brother had adopted a more equitable policy. In the case of the money appropriated by Flaccus from a fund intended for games in honour of his father, Cicero cannot deny the fact but insists that the city of Tralles, where the fund had been deposited, should not complain about the loss of money it had no right to use (56), while insinuating that Flaccus had somehow inherited the money from his father (59). As Alexander (2002, 93) comments, these arguments 'are so weak as to give credence to the prosecution's case'. Finally, Cicero appeals to Flaccus' services against Catiline (1, 5, 103–4, etc.) and urges the jurors, in casting their ballots, to think not of the provincials or the facts of the case but the safety of the Roman state.¹³⁴ Tellingly, he invokes the example of M'. Aquilius (cos. 101), who was acquitted of extortion, though proved guilty, on account of his services in the Sicilian slave war (*Flacc.* 98). Flaccus too was acquitted, but it appears his career was permanently damaged (Alexander 2002, 78).

'In short, the case featured a model prosecutor and a model prosecution' (Alexander 2002, 84). Alexander (87) likens it to Cicero's efforts against Verres. The parallel goes further: I argued in chapter 1 that Pompey promoted just this sort of model prosecution as part of his programme of provincial reform in 70. The trials of Antonius and Flaccus suggest that he pursued the same policy on his return from the east. Rather than the political attacks Cicero alleges, they

¹³⁰ See Dio 36.54.2 with MRR 2.156 n. 3 on the possible legateship. In 59 Pompey was said to be *vehementer inimicus* (Cic. *Flacc.* 14); Cicero does not attempt to deny it. We might compare the case of M. Aemilius Scaurus, abandoned by Pompey in 54, possibly in connection with his alleged extortion in Sardinia (see Morrell 2014, 673–4 n. 46 and 675 n. 65, with references).

¹³¹ Which, he claims, extended to violence and deception: Cic. *Flacc.* 13–15.

¹³² See Alexander 2002, 78–9; Riggsby 1999, 137–8.

¹³³ See e.g. Cic. *Flacc.* 9–12, 19, 36, 42–3, 53, 65–6; Alexander 2002, 84–6; Riggsby 1999, 131–6; Steel 2001, 53.

¹³⁴ Cic. *Flacc.* 96: *Non iudicatis in hac causa de exteris nationibus, non de sociis; de vobis atque de vestra re publica iudicatis.* ('In this case you are not passing judgement about foreign nations nor about the allies; you are passing judgement about yourselves and your *res publica*.') Cf. 3.

should be seen as part of a genuine attempt to bring bad governors to justice and, more generally, to put standards of provincial governance under the spotlight, with Pompey himself as exemplar. A new extortion law, with enhanced protections for Rome's allies, was a natural extension of that project.

The timing of the law's passage also makes collaboration between Pompey and Caesar very plausible. Dio and Cicero allow us to date it after Caesar's 'political' measures, including the ratification of Pompey's eastern settlement,¹³⁵ and before Flaccus' trial,¹³⁶ so probably between May and September.¹³⁷ Pompey, who married Julia in late April or early May, was closely allied with Caesar in this period.¹³⁸ It was also at this time that Caesar began to call on Pompey first in the senate (Suet. *Iul.* 21). I think it likely that Pompey took an active interest in the preparation of the new extortion law. Indeed, the *lex Julia* can be seen alongside the agrarian law and the ratification of the eastern settlement as another objective Pompey secured through Caesar in 59.

How far Pompey might have helped to shape the content of the law, we cannot say. It is possible, however, that his example served as inspiration for some of the law's provisions. For instance, Cicero's comments in *Pro Lege Manilia* seem to imply that Pompey's restraint went beyond legal requirements: 'far from anyone being forced to incur expense on account of a soldier, no-one is allowed to even if willing.'¹³⁹ Indeed, the whole passage can be read as a call for reform to the practice of billeting and requisitions, which the *lex Julia* went some way towards answering.¹⁴⁰ We might also hypothesize some connection between Pompey's pointed account-keeping in the east and the *lex Julia*'s rigorous new requirements in that department.¹⁴¹ It is also worth

¹³⁵ Dio. 38.7.5–6. Taylor (1951, 264) dates the ratification of Pompey's settlement and the *lex Campana* to the end of May; Meier (1961, 70) and Seager (2002, 189) favour an earlier date.

¹³⁶ The 'fresh and new law' (*lege hac recenti ac nova*) at Cic. *Flacc.* 13 is surely the *lex Julia* (Oost 1956, 20–1). Flaccus' trial probably took place around September: see Alexander 2002, 279 n. 6.

¹³⁷ Oost (1956, 22) argues for August or September; Fallu (1970, 194–6) for early May. Cf. e.g. Gelzer 1968, 93 with n. 1 (August) and Taylor 1968, 191 n. 57 (between August and October). I do not think there is enough evidence to date the law precisely.

¹³⁸ On the marriage, see Cic. *Att.* 2.17.1 SB 37, probably written in early May. According to Cicero, Pompey was increasingly unhappy with his position c. August (see e.g. *Att.* 2.22.6 SB 42, 2.23.2 SB 43) but the coalition endured; moreover, work on the *lex repetundarum* must have begun well in advance of its promulgation (perhaps several months: Oost 1956, 24).

¹³⁹ Cic. *leg. Man.* 39: *non modo ut sumptum faciat in militem nemini vis adfertur sed ne cupienti quidem quicquam permittitur*. Cf. Plut. *Luc.* 33.3–4 on Lucullus' practice.

¹⁴⁰ Cic. *leg. Man.* 37–9. Cicero begins by commenting on the destruction caused by Roman generals and their armies, which, he suggests, is worse than that wrought by the enemy (38). For restrictions under the *lex Julia* (at least for the governor's retinue), see e.g. Cic. *Att.* 5.10.2 SB 103, 5.16.3 SB 109; *Pis.* 90; Lintott 1993, 92–3, 105. Cic. *Att.* 5.21.7 SB 114 could imply broader legal relief from billeting, which the Cypriot cities nonetheless had been forced to pay for; cf. *prov. cons.* 5 and Caes. *BC* 3.3.1, where billeting is depicted as reprehensible, if not necessarily illegal.

¹⁴¹ See 'The *lex Julia de pecuniis repetundis*', above, and chapter 2 ('Pompey's personal profits') on Pompey's account-keeping.

noting Cicero's portrayal of Pompey in the *Pro Balbo* of 56 as an expert in treaties and the rights of foreign peoples (14). In the case of 'free' cities, at least, these rights—in many cases determined by Pompey himself—received new protection under the *lex Julia* of 59.¹⁴²

Cato and the *lex Julia*

There is evidence that not only Caesar's ally Pompey but also his opponents in the senate helped to shape the content of the *lex Julia*. In *De Provinciis Consularibus* (6), Cicero accuses L. Calpurnius Piso (cos. 58) of exercising jurisdiction over free communities contrary to law and the senate's decrees. In particular, Cicero claims that Piso had bought from Clodius the right 'to pronounce judgement over free peoples regarding moneys lent contrary to decrees of the senate and contrary to the law of your son-in-law'.¹⁴³ Evidently the *lex Julia* had introduced new protections for the rights of free communities: 'For by that most just and excellent law of Caesar', says Cicero, 'free peoples were completely and truly free.'¹⁴⁴

Lintott (1981, 203 n. 154) astutely connects this new element of the *lex repetundarum* with a *senatus consultum* of 60 which inhibited Atticus' efforts to recover money owed to him by the free city of Sicyon. The relevant clause, *de populis liberis*, was added at the behest of Cato and his emulator the younger P. Servilius Isauricus.¹⁴⁵ It was regarded as equitable and, while Cicero says initially that it was added *sine causa* (Att. 1.19.2 SB 19), presumably to appease Atticus, a later letter remarks, 'It is not yet the right moment for striking out the *senatus consultum*, since there are none who are complaining and many who are pleased, some out of malice, some out of a notion of fairness.'¹⁴⁶ The right moment never came; instead the clause, or one very like it, was incorporated the next year in Caesar's extortion law.

¹⁴² See e.g. Jones 1971, 202, 257–9 on 'free' cities under Pompey's settlement and below ('Cato and the *lex Julia*') on their protection. The confirmation of privileges granted to cities was one of the major areas of contention between Pompey and Lucullus in the debate over Pompey's *acta* (Vell. 2.40.5).

¹⁴³ Cic. *prov. cons.* 7: *de pecuniis creditis ius in liberos populos contra senatus consulta et contra legem generi tui dicere*. Cf. *dom.* 23.

¹⁴⁴ Cic. *Pis.* 37: *Nam lege Caesaris iustissima atque optima populi liberi plane et vere erant liberi*.

¹⁴⁵ Cic. *Att.* 1.19.9 SB 19, 15 March 60: *... hoc autem de populis liberis sine causa additum. et ita factum est a P. Servilio filio, qui in postremis sententiam dixit*. ('... but this [clause] about free cities was added without good reason. And it was done in this way by P. Servilius the son, who was among the last to give his opinion.') 2.1.10 SB 21, c.3(?) June 60: *Quod Sicyonii te laedunt, Catoni et eius aemulatori attribues Servilio*. ('You will ascribe the damage done to you by the Sicyonians to Cato and his emulator Servilius.')

¹⁴⁶ Cic. *Att.* 1.20.4 SB 20, after 12 May 60: *inducendi senatus consulti maturitas nondum est, quod neque sunt qui querantur et multi, partim malevolentia partim opinione aequitatis, delectantur*. (Malevolentia here is malice towards equites: Shackleton Bailey 1965–70, 1.342.) Cf. 2.1.10 SB 21 with Shackleton Bailey 1965–70, 1.352: '*laudemus* implies that it was no doubt very

Although the clause was added on Servilius' motion, it appears that Cato was the driving force,¹⁴⁷ as also in the matter of the Asian tax contract and the attempt to make equestrian jurors liable for bribe-taking.¹⁴⁸ This would tally with Cato's general interest in the protection of foreigners and what Cicero later presumed to be his attitude to M. Scaptius' treatment of the Salaminians.¹⁴⁹ Very possibly the presiding magistrate, responsible for allowing the addition, was the consul Q. Metellus Celer, who is also found cooperating with Cato in the matter of the Asian tax contract.¹⁵⁰

Servilius too was genuinely interested in provincial governance.¹⁵¹ He was the son of P. Servilius Vatia Isauricus (cos. 79) who governed Cilicia in the 70s and was regarded as a model administrator.¹⁵² In the 60s and 50s Servilius junior was closely associated with Cato.¹⁵³ He switched allegiance to Caesar in the civil war, but continued to defend the welfare of Rome's allies. As governor of Asia in 46–44, he did much to help the province recover from the civil war;¹⁵⁴ in return, he was honoured as saviour and benefactor in numerous inscriptions and even worshipped at Ephesus.¹⁵⁵ He may also have been involved in removing *publicani* from the collection of the Asian tithe. The sources portray this as an on-the-spot act by Caesar (App. BC 5.4; Dio 42.6.3), but Asia's taxes were governed by a *lex Sempronia*, so the change should have required legislation.¹⁵⁶ Servilius, Caesar's colleague in 48, was in Rome and in a position to pass the necessary law; he may even have inspired the reform, which laid the groundwork for his recovery programme in Asia.¹⁵⁷ Note also that Servilius, unusually, governed Asia as a consular; this circumstance, along

right and proper to protect the free communities ... only it spelt the end of *concordia ordinum*.¹ Cicero took the same line on Cato's proposal that *equites* should be made liable for bribe-taking and his opposition to the tax farmers' request (*Att.* 2.1.8 SB 21).

¹⁴⁷ Cic. *Att.* 2.1.10 SB 21 (n. 145, above); cf. Shackleton Bailey 1965–70, 1.340.

¹⁴⁸ Cic. *Att.* 2.1.8 SB 21; see below in this section and chapter 5.

¹⁴⁹ Cic. *Att.* 5.21.13 SB 114, 6.1.7 SB 115, 6.2.8 SB 116.

¹⁵⁰ Cic. *Att.* 1.17.9 SB 17 (as consul designate). Cf. Dio 37.50.1 and 38.7.1 for their association in other contexts.

¹⁵¹ Welch (1996, 454) suggests that Servilius was acting as patron of Sicyon.

¹⁵² Cic. *Verr.* 2.1.56–7, 3.210, 4.82; *Att.* 6.1.16 SB 115.

¹⁵³ Note also his cooperation with Cato in obstructing C. Pomptinus' triumph: Cic. *Att.* 4.18.4 SB 92; *Q. fr.* 3.4.6 SB 24; cf. Münzer 1999, 326.

¹⁵⁴ Sources in *MRR* 2.298. In addition, Cicero's letters of commendation to Servilius in Asia commonly include the sort of rider ('so far as your good faith will allow', etc.) which I would associate with the reform project of 52–50 (see chapter 8, 'Thermus in Asia'). Compare e.g. *fam.* 13.67.2 SB 296, 13.69.2 SB 297 to Servilius and 13.53.1 SB 130, 13.61.1 SB 135 to Q. Minucius Thermus and P. Silius.

¹⁵⁵ See Friesen 1993, 9–10.

¹⁵⁶ See e.g. Brunt 1990, 6, with references. Indeed, it is doubtful whether Caesar had time to do much in 48–47 (Yavetz 1983, 101).

¹⁵⁷ Caesar's primary concern in this period was fundraising: Dio 42.49.

with the excellence of his administration, recalls the famous Asian mission of Q. Mucius Scaevola (cos. 95).¹⁵⁸

There is little doubt that Cato and Servilius' intervention was necessary. The tribune C. Cornelius had complained in 67 that 'the provinces were being bled dry with interest payments',¹⁵⁹ and either in that year or in 58 a *lex Gabinia* was passed prohibiting loans to foreigners at Rome.¹⁶⁰ The activities of Brutus' agent M. Scaptius in Cyprus give some idea of the pressure that might be brought to bear on an indebted city.¹⁶¹ Atticus, significantly, did not disapprove of his methods (Cic. *Att.* 6.2.8 SB 116). Indeed, in 61, when Atticus was hoping to recover his money with the assistance of the notorious C. Antonius, Cicero described his efforts as 'laying siege to Sicyon'.¹⁶²

Evidently the decree of 60 posed a serious impediment. Shackleton Bailey suggests that it 'denied recognition to debts incurred by free communities, such as Sicyon clearly was', perhaps in connection with the *lex Gabinia* on loans or with efforts to limit the export of precious metals.¹⁶³ Schalit (2001, 151 n. 25) thinks the decree prevented the governor from using troops against a free city to compel repayment of a debt. This is probably closer to the mark. Since Atticus procured some sort of official letter the next year,¹⁶⁴ and in 58 Sicyon was compelled to pay up (Plin. *NH* 35.127), it seems less likely that the decree invalidated loans than that it restricted the available methods of enforcing them—I suggest, by prohibiting a governor from intervening in the debts of free cities.¹⁶⁵ This seems to be what the *lex Julia* did.¹⁶⁶ The financier might still do what he could but, without recourse to the governor's *imperium* and troops, his options were dramatically limited.¹⁶⁷

While the intention and effect of the rule *de populis liberis* was to protect free cities from Roman financiers, in form, at least as incorporated in the *lex Julia*, it regulated the activity of governors. The same is probably true of the senate's decree, since it evidently interfered with Atticus' plans to put pressure on Sicyon through the governor of Macedonia. This raises the possibility that

¹⁵⁸ See introduction, 'Provincial reform before 70'.

¹⁵⁹ Asc. 58C: *Exhauriri provincias usuris*.

¹⁶⁰ Cic. *Att.* 5.21.12 SB 114; see chapter 1, 'Pompey's programme and the tribunes of 67'.

¹⁶¹ Cic. *Att.* 5.21.10–13 SB 114, 6.1.6–7 SB 115, 6.2.7–9 SB 116, 6.3.5–6 SB 117.

¹⁶² Cic. *Att.* 1.13.1 SB 13 (*Sicyonem oppugnandum*); cf. *fam.* 5.5.3 SB 5.

¹⁶³ Shackleton Bailey 1965–70, 1.339. Cf. Tyrrell and Purser 1904, 237; Steel 2001, 203.

¹⁶⁴ Cic. *Att.* 2.13.2 SB 33 (c.24 April 59) with Shackleton Bailey 1965–70, 1.379. This may be another example of a long-running dispute resolved by Caesar in favour of the *equites*, despite the new protections for free cities included in his extortion law.

¹⁶⁵ Compare the *lex Gabinia*, which rendered unenforceable loans made to foreigners in Rome by prohibiting a governor from giving judgement in accordance with the contract: Cic. *Att.* 5.21.12 SB 114.

¹⁶⁶ Cic. *prov. cons.* 6–7. Cf. Nisbet 1961, 98.

¹⁶⁷ Cf. Cic. *Att.* 1.19.9 SB 19, 1.20.4 SB 20.

the decree, like the *lex Julia*, was not fiscally focused but concerned with the conduct of magistrates. Moreover, the provision on free cities was only part of a larger *senatus consultum*, nature unknown, but evidently laudable and sufficiently complex for Cicero to claim that the implications for financiers like Atticus had escaped notice.¹⁶⁸ We know that Cicero put his name to it, as presumably did others who (he claims) disapproved of the clause on free communities (*Att.* 1.19.9 SB 19). All of this also fits what we know about the *lex Julia*. It is possible, therefore, that the *senatus consultum* of 60 was not only the source of the clause on free cities but a stage in the process of drafting a new extortion law.

The contemporary debate on equestrian liability potentially adds support to the view that the *lex repetundarum* was already under discussion in 60. In late 61 Cato had proposed that equestrian jurors should be made liable to charges of bribe-taking and secured the passage of a *senatus consultum* to that effect.¹⁶⁹ Since such charges were normally heard in the *quaestio repetundarum*, one means of implementing Cato's proposal would have been to amend the extortion law.¹⁷⁰ There is no evidence that the senate's decree, or the bill subsequently put to the assembly, proceeded in this way, and at any rate the bill failed.¹⁷¹ Nonetheless, debate on equestrian liability might have sparked discussion of the *lex repetundarum*. It is conceivable, indeed, that questions of equestrian liability and the rights of free cities formed part of a larger debate on the future of the extortion law that began long before Caesar became consul.

CONCLUSIONS

I am not suggesting that Cato and his friends cooperated in any way with Caesar in 59, but rather that Caesar's law incorporated parts of a *senatus consultum* passed the previous year on Cato's initiative. The resulting *lex* included significant protections for free communities as well as other innovations that Cato surely would have approved, had it not been a *lex Julia*. Henceforth there seemed to be little scope left to improve the content of the *lex*

¹⁶⁸ Cic. *Att.* 1.20.4 SB 20: *cum est actum, neque animadversum est ad quos pertineret* ('when the thing was done, no-one noticed whom it affected'). Cicero states that many others were hit (2.1.10 SB 21).

¹⁶⁹ Cic. *Att.* 1.17.8 SB 17 (5 December 61), 2.1.8 SB 21 (June 60).

¹⁷⁰ That is, extending the list of persons liable under the law (see chapter 5). For the use of the *quaestio repetundarum*, see above, n. 13.

¹⁷¹ Cic. *Att.* 1.18.3 SB 18. Cicero describes the SC as *de iudiciis*; the one known provision of the bill, *qui ob rem iudicandam* ('whoever on account of a judicial decision'), seems to envision a standalone law.

repetundarum. Any proposal to extend liability to *equites* was not pursued, however. That Pompey may have had something else in mind is suggested by his attempt in 55 to subject equestrian members of a governor's cohort to the penalties of the extortion law. On this, as we shall see in the next chapter, he and Cato were in harmony.

The *equites* and the extortion law

Cicero more than once described the extortion law passed by Caesar in 59 as *optima lex* (Sest. 135; Pis. 37). It was not modified again during the republic. It seems fair to say that the content of the law was well designed.¹ In one respect, however, it was obviously deficient: only senators and former magistrates could be prosecuted under it.² The *lex Julia* did not apply to the various other members of the governor's cohort, many of them equestrian, who might equally be guilty of profiteering in the provinces.³ Controlling the behaviour of subordinates fell to the responsibility of the individual governor, who in theory was legally answerable for their actions (Cic. Q. fr. 1.1.12 SB 1), but in practice that offered little protection for the allies. The political power of the equestrian order and their effective majority in the jury-courts made even diligent governors think twice about offending *equites* in the provinces.⁴

Indeed, it was not uncommon for governors to grant businessmen prefectures and even troops precisely to enable them to commit extortion. Cicero's

¹ See e.g. Brunt 1961, 196: 'It is clear that Republican law, had it been enforced, held out fairly adequate prospects of reparation to the victims of extortion.'

² And, probably, senators' sons, as under the law of the Tabula Bembina: *lex rep.* (RS no. 1) l. 2. Ap. Claudius (son of C. Claudius Pulcher, pr. 56) was probably not yet a senator himself when prosecuted under the *lex Julia* in 50 (see TLRR no. 340; MRR 3.57).

³ Cic. Rab. Post. 12. Cicero says the whole order was immune from the *lex Julia*, but possibly it did apply to some elected equestrian officials. The Gracchan law included military tribunes of the first four legions, who were generally sub-senatorial, as were *tresviri capitales*, if correctly restored (*lex rep.* l. 2; Sherwin-White 1982, 19). The proposal to extend the *lex Julia* to *tribuni* (Cic. Rab. Post. 13) might suggest that they were not subject to Caesar's law, but this more likely refers to the tribunes who were appointed rather than elected (Fest. 316L). Elsewhere Cicero describes the law *ne quis iudicio circumveniretur* as applying to senators (Clu. 151), or senators and magistrates (156), though it also applied to military tribunes of the first four legions (148). The alternative is that the *lex Julia* was actually narrower in scope than the Gracchan law, in which case C. Servilius Glaucia seems the most likely candidate to have introduced the change (see Cic. Brut. 224; Rab. Post. 14); neither Sulla (see Cic. Clu. 151) nor Caesar, who in 59 settled the Asian tax contract dispute in favour of the equestrian order (App. BC 2.13, etc.), will have interfered with the privilege. In general, however, *equites* (including prefects and most other equestrian members of the governor's cohort) were immune from the *lex Julia*, a point Rabirius' prosecutor conceded: Cic. Rab. Post. 12.

⁴ See chapter 1 ('The Verrines and the courts') and chapter 8 ('Cicero in Cilicia').

refusal to do so was clearly exceptional, as was Atticus in declining such appointments.⁵ The classic example is M. Scaptius, agent of M. Brutus, who used cavalry granted him by Ap. Claudius Pulcher to demand usurious interest on an illegal loan to the city of Salamis in Cyprus and even caused the death of five of their senators.⁶ Cicero, Appius' successor, refused to make Scaptius a prefect, despite pressure from Brutus and Atticus.⁷ It tells us something of the prevalence of such practices that Atticus, who actively encouraged Cicero's policy of upright government, felt able to request a prefecture and fifty horse for the likes of Scaptius.⁸ In fact Cicero gives the impression that all Appius' staff were engaged in similar criminal activities (*Att.* 6.1.2 SB 115). Even allowing for exaggeration, it is clear that Scaptius was not exceptional. Yet such figures could not be prosecuted under the *lex repetundarum*, and it is clear that governors like Appius could not be relied on to restrain them.⁹

Cicero's first letter to Quintus also draws attention to this problem.¹⁰ It emphasizes the need for a governor to control his staff, especially those he appointed himself (§§10–14). While the governor's responsibility for his quaestor and senatorial legates was limited (§§10–11), in the case of other members of the governor's cohort, says Cicero, 'we have to answer not only for everything they do but also for everything they say.'¹¹ Throughout the letter Cicero assumes that the average official will attempt to exploit his position for personal profit and that the average governor will do little to stop him. Thus he writes: 'Now, of course, I do not intend—especially as present *mores* have inclined so much towards excessive lenity and scrabbling for advantage—that you should search out every grubby particular and examine each one of them...' ¹² In other words, profiteering by a governor's staff was not only common but to a great extent tolerated.

⁵ Cicero: *Cic. Att.* 5.21.10 SB 114, 6.1.4, 6 SB 115. Atticus: *Nep. Att.* 6.4–5. Atticus put pressure on provincials in other ways, however (see chapter 4, 'Cato and the *lex Julia*').

⁶ *Cic. Att.* 5.21.10–13 SB 114, 6.1.6–7 SB 115, 6.2.7–9 SB 116, 6.3.5–6 SB 117. Appius had made Scaptius a prefect; as such, he must have been an equestrian: see Suolahti 1955, 199–200, 267.

⁷ Though he did grant a prefecture to a different M. Scaptius active in Cappadocia: *Cic. Att.* 6.1.4 SB 115 (see n. 73, below).

⁸ *Cic. Att.* 6.2.8 SB 116; see chapter 8, 'Cicero in Cilicia'.

⁹ Note also that Cicero, for all his indignation, was not prepared to offend Brutus by allowing the Salaminians to deposit the money in a temple; ultimately he left the matter for the next governor to settle, while interest continued to accrue (*Cic. Att.* 6.1.7 SB 115).

¹⁰ *Cic. Q. fr.* 1.1 SB 1. The letter was written at the end of 60 or the beginning of 59 and is not a private communication but an essay on 'the good governor' (see Shackleton Bailey 1980, 147); very possibly there was some connection between the letter and the new extortion law probably already under consideration at this time.

¹¹ *Cic. Q. fr.* 1.1.12 SB 1: *horum non modo facta sed etiam dicta omnia praestanda nobis sunt.*

¹² *Cic. Q. fr.* 1.1.11 SB 1: *neque enim mihi sane placet, praesertim cum hi mores tantum iam ad nimiam lenitatem et ad ambitionem incubuerint, scrutari te omnis sordis, excutere unum quemque eorum...*

Other evidence confirms the picture. Catullus lamented that he had been denied the usual opportunities for profit while on the staff of C. Memmius (pr. 58) in Bithynia,¹³ and in poem 29 (perhaps hypocritically) he lambasts the profiteering of Caesar's *praefectus fabrum* Mamurra.¹⁴ Cicero, too, attests the notoriety of Mamurra's fortune and that of L. Cornelius Balbus, another of Caesar's equestrian officers.¹⁵ But, while such men attracted disapproval, they could not be prosecuted under the *lex repetundarum*. Control of their activities was at the discretion of their commanders,¹⁶ and Catullus criticizes both Caesar and Pompey for failing to control Mamurra (a point to which I will return presently).

An extortion law which applied to some officials and not others was clearly unsatisfactory, as developments under the principate show.¹⁷ The *lex Julia* was extended to equestrian officials early on, perhaps at the same time that Augustus began to employ *equites* as governors and procurators (Brunt 1961, 198). Eventually all members of the governor's retinue could be prosecuted, irrespective of their status (*dig.* 48.11.1.pr). However, the fact that the law was not extended until the principate does not mean that republican legislators failed to see the need for reform. Probably most senators felt that equestrian officials *ought* to be liable, but there were formidable political obstacles to removing their immunity, as in the parallel case of judicial bribery.¹⁸ Cicero wrote in June 60, 'What could be more proper than that those who accept bribes for deciding cases should face trial?'¹⁹ But Cato's attempt to have a law passed to that effect produced only a rift between senate and *equites*. Cicero refers to actual riots in consequence, and pronounced Cato a political liability for his part.²⁰ It was not the first time such a proposal had been quashed.²¹ Nonetheless, an attempt was made, probably in 55, to extend the *lex Julia* to equestrian officials.²²

¹³ Catull. 10, 28; cf. Braund 1996; Cairns 2003, 179. For Catullus' equestrian status, see e.g. Wiseman 1985, 100.

¹⁴ Catull. 29.1–4; cf. ll. 12–20. Plin. *NH* 36.48 attests that Mamurra was *eques Romanus*.

¹⁵ Cic. *Att.* 7.7.6 SB 130; *Balb.* 63.

¹⁶ Governors could hear charges against their subordinates (Ps-Asc. 236St; cf. e.g. Cic. *Verr.* 2.3.152).

¹⁷ Cf. e.g. Gelzer 1968, 94; Gruen 1974, 242.

¹⁸ Cf. Gruen 1974, 241–2. Extending the *lex repetundarum* was less problematic under the principate, when *equites* no longer sat in judgement on senatorial governors and the *princeps* exercised direct control over equestrian officials (see e.g. Brunt 1961, 199–201).

¹⁹ Cic. *Att.* 2.1.8 SB 21: *quid verius quam in iudicium venire qui ob rem iudicandam pecuniam acceperit?*

²⁰ Cic. *Att.* 2.1.8 SB 21. A bill was promulgated *ex senatus consulto* on Cato's motion but no law was passed (1.17.8 SB 17, 1.18.3 SB 18).

²¹ The *lex iudiciaria* of M. Livius Drusus (tr. pl. 91) included such a provision but met with fierce equestrian resistance and at any rate was soon annulled (Diod. 37.10.3, Cic. *leg.* 2.31); see *Clu.* 145, 152 for a further attempt c.66, probably prompted by the *lex Aurelia* of 70 (cf. *Clu.* 152–3). Initially, however, a majority of the senate had supported both Drusus' law (cf. Morrell 2015, 247) and Cato's proposal.

²² On the date, see 'The date of Pompey's *relatio*', below.

Our knowledge of this proposal depends on a single passage of Cicero's speech in defence of C. Rabirius Postumus, delivered perhaps in late 54. Rabirius, an equestrian financier, was prosecuted under a provision of the *lex Julia* which provided for recovery of money from third parties, including *equites*. He was alleged to have received money from A. Gabinius, the governor of Syria, who had been convicted of extortion but was unable to pay his damages. However, Rabirius had not been named during Gabinius' trial, as was customary (if not mandatory) to 'activate' the recovery provision. Cicero therefore claims that the prosecution was invalidly attempting to extend the *lex Julia* proper to Rabirius who, as an *eques*, was not subject to the law.²³ In the course of his argument, Cicero calls on the good faith of the senate towards the equestrian order, as demonstrated during a recent debate on whether *equites* should be liable under the *lex repetundarum*:

Nam cum optimo et praestantissimo consule, Cn. Pompeio, de hac ipsa quaestione referente existerent non nullae, sed perpaucae tamen acerbae sententiae, quae quidem censerent ut tribuni, ut praefecti, ut scribae, ut comites omnes magistratuum lege hac tenerentur, vos, vos inquam, ipsi et senatus frequens restitit... (Cic. *Rab. Post.* 13)

For, when our excellent and most distinguished consul Cn. Pompeius raised this very *quaestio* in the senate, and there emerged a very few but harsh *sententiae* which indeed opined that tribunes, prefects, scribes, and all members of a magistrate's retinue should be subject to this law, you—you yourselves, I say, and a full senate—resisted...

The natural interpretation of this passage is that Pompey as consul in 55 proposed to modify the extortion law so that non-senators could be prosecuted, but the proposal was rejected by the senate. This is the interpretation of Rotondi, Gruen, and others,²⁴ and it is supported by close reading of the passage. Much of Cicero's language is technical: *referre*, *sententia*, *censere*, and *frequens* all belong to the formal vocabulary of senate procedure. *Referre* (*ad senatum*) is the action of the presiding magistrate (here Pompey as consul) bringing a matter before the senate. In doing so he could propose a solution, such as the passing of a law. This was the usual course of consular legislation.²⁵ Indeed, the consul might read out the proposed bill, drafted in advance, before asking the senators' opinions, as in the case of Caesar's first agrarian law (Dio

²³ Rabirius' trial is discussed in greater detail below ('The trial of Rabirius Postumus').

²⁴ Rotondi 1912, 405–6; Gruen 1974, 242; cf. e.g. Klodt 1992, 51 n. 134 and 118; Siani-Davies 2001, 150. Venturini (1979, 466–8) would attribute the initiative to a small number of senators rather than Pompey. Fascione's argument (1974, 340–53) that Pompey initiated only a general discussion of the 'Egyptian affair' is unconvincing (cf. Klodt 1992, 118; Siani-Davies 2001, 150) and involves the untenable proposition that Pompey's consulship in 55 somehow continued until at least February 54.

²⁵ See Pina Polo 2011, 298.

38.1–20). While the *relatio* was, strictly speaking, a request for advice, the term could be used to describe both the raising of the matter and the proposed bill.²⁶ Certainly when Pompey *de tribunicia potestate referente* in 70, his intentions were well known, whether or not he read out his bill on the tribunician powers (Cic. *Verr.* 1.44–5). Cicero uses the same formula in the *Pro Rabirio* passage. It probably describes, if not a draft bill, then a fairly concrete proposal from Pompey which was recognized as a threat to equestrian privileges.

Other factors strengthen this conclusion. Cicero says that a *frequens senatus* rejected the motion. *Frequens* denotes the quorum required for certain senate business.²⁷ Possibly the proposed legislative change required a quorum;²⁸ if Pompey had simply raised the matter for general discussion there would have been no need for a *frequens senatus*.²⁹ Further, Pompey must have known what sort of response a debate on equestrian liability would elicit.³⁰ It seems most unlikely that he would have opened that can of worms unless he hoped to procure some change. On balance, it seems likely that Pompey made a concrete proposal, though simply raising the matter was tantamount to a call for reform.³¹

Kloldt (1992, 118) and Siani-Davies (2001, 150) suggest that Pompey's proposal may have been intended to form part of the *lex iudiciaria* he passed in 55, though any provision concerning the *equites* was firmly rejected. Kloldt notes (1992, 123) that a *lex iudiciaria* could refer to a particular *quaestio*. However, Pompey's *lex iudiciaria* evidently applied to all courts,³² while Kloldt's solution would restrict it to the *quaestio repetundarum*. It is preferable to think of a separate *lex* dealing specifically with extortion. Indeed, this may be the meaning of Cicero's words, *de hac ipsa quaestione*. *Quaestio* can mean 'question' or 'issue' in a general sense, or a specific court or investigation. Since

²⁶ e.g. Asc. 57C.

²⁷ See Ryan 1998, esp. ch. 1.

²⁸ Ryan 1998, 36–7 lists various categories of quorate business. It is not clear whether legislative proposals required a quorum; the SC approving Pompey's grain command in 57, at least, was passed by a *frequens senatus* (Cic. *Att.* 4.1.7 SB 73). Mommsen (1888, 989) thought a quorum was necessary for all senate business.

²⁹ It is possible, however, that the quorum was required for some other item on the agenda that day.

³⁰ Pompey had been in Rome during the disputes of 61–60, though he seems to have declined to take sides (Cic. *Att.* 1.18.6 SB 18).

³¹ The idea need not have been Pompey's, but it was his decision to bring it before the senate. While we do hear of consuls being pressured to raise particular matters, Pompey is not likely to have succumbed, especially in 55, when he and Crassus had prevented Cicero's proposal on the Silylline books and that of Cato's friends about bribery being put to the vote (Dio 39.60.1; Cic. *Q. fr.* 2.8.3 SB 13); compare the repeated refusal of the consuls of 58 to make a *relatio* concerning Cicero (Cic. *dom.* 70; *Pis.* 29). The consuls could be directed by *senatus consultum* to make a *relatio* on a particular topic (e.g. Cic. *fam.* 1.9.8 SB 20; Cael. *fam.* 8.8.5 SB 84) but, given the unpopularity of the matter, that was plainly not the case here.

³² Cic. *Pis.* 94; Asc. 17C; Gruen 1974, 231–2; Griffin 1973, 109. On the law, cf. chapter 1, n. 44.

the debate took place in 55 it cannot have referred to Rabirius' trial and it is unlikely it refers to the Egyptian affair.³³ Moreover, I have been unable to find any other instance where *quaestio* is used to describe an issue raised in the senate—*rem referre* or *de re referre* is standard. I suggest, therefore, that *haec ipsa quaestio* here means not 'this same issue' or 'this very inquiry', as it is usually translated, but the *quaestio repetundarum*, in which Cicero is speaking. Cicero often uses *haec quaestio* in this way; indeed, there is an exact parallel in the *Verrines* (1.30), where *haec ipsa quaestio* refers unambiguously to the *quaestio repetundarum*. Since *de* [something] *referre* is formal language for the topic of a proposal,³⁴ *de hac ipsa quaestione [repetundarum] referente* could easily refer to a proposal to make equestrian officials liable to the penalties of the extortion court.

The *acerbae sententiae* provide a further clue to the nature of Pompey's proposal. A *sententia* (a senator's opinion given in response to the *relatio*) could vary or add to an earlier proposal or put forward an alternative.³⁵ The proposal Cicero describes seems to reflect the terms of a hypothetical law, specifically the list of persons liable which was found at the beginning of a Roman statute,³⁶ picking up where the *lex Julia* left off—that is, after senators and (former) magistrates. The list includes not only equestrian officials but also scribes, who were normally sub-equestrian, and all *comites*, without reference to rank.³⁷ Probably these *sententiae* went somewhat beyond Pompey's proposal,³⁸ but Cicero's description makes best sense if they paralleled it in form, namely, an extended list of persons liable under the *lex repetundarum*.

It is not clear whether such a measure, if passed, would have existed alongside the *lex Julia* or replaced it.³⁹ It was possible for one law to supplement or modify the terms of another;⁴⁰ on the other hand, it was common Roman practice to re-legislate entire statutes even where the content changed

³³ See Klodt 1992, 118; Siani-Davies 2001, 150.

³⁴ See e.g. Cic. *Verr.* 1.44 and Cael. *fam.* 8.8.5 SB 84.

³⁵ For example, the *sententiae* of Cato's friends on 11 February 55 proposed an addition to Afranius' earlier motion (Cic. *Q. fr.* 2.8.3 SB 13). Alternatively, a senator might simply agree (*adsentire*) with a previous speaker (e.g. Cic. *Att.* 7.7.7 SB 130).

³⁶ See e.g. Cic. *Clu.* 148; *Rab. Post.* 14; *lex rep.* ll. 2, 8–9. Liability could be defined broadly or limited to certain classes of person, as in the case of the *lex Julia* (see n. 3).

³⁷ While *comites omnes magistratuum* might be rhetorical licence, the specification of *scribae* surely is not. But extending liability to all *comites* made good sense: not only the governor's subordinates but his companions, too, might seek to profit from a province (see e.g. Cic. *Q. fr.* 3.1.9 SB 21; *Att.* 7.1.6 SB 124, 7.3.8 SB 126).

³⁸ Note that, by focusing on the most extreme opinions, Cicero can sidestep the fact that Pompey too supported extending liability to *equites*.

³⁹ A *lex* would have been required to make *equites* liable; cf. Venturini 1979, 466, 469 n. 17, rejecting Fascione's suggestion of an interpretive *senatus consultum*.

⁴⁰ Where two statutes conflicted, the newer partially abrogated the older (Liv. 9.34.7; cf. RS 1.12–13).

relatively little.⁴¹ A new *lex repetundarum* might have appealed to some senators, especially those who maintained that Caesar's laws had been passed *contra auspiciu*m and ought to be resubmitted.⁴² Even a *lex Pompeia* (*Licinia*) would be more acceptable to them than a *lex Julia*. However, it is not clear whether the senate even voted on the matter.⁴³ If Cicero's report is at all accurate, it must have been obvious that a division would be pointless. On the other hand, Cicero says a little further on (18), *vos senatus liberos hac lege esse voluit* ('the senate wished you [*equites*] to be free from this law'). *Velle* is typical of *senatus consulta*,⁴⁴ so Cicero's words might indicate that the senate voted in 55 to confirm equestrian immunity.

Pompey's proposal was clearly controversial. It would make sense if it was prompted by some recent event. Cicero speaks of 'the crimes of many men' (*multorum delicta*, *Rab. Post.* 13), but it is not at all clear what he is referring to.⁴⁵ One possible catalyst was the behaviour of Caesar's *praefectus fabrum* Mamurra.⁴⁶ Evidently Mamurra's conduct in the provinces went beyond the accepted modes of personal enrichment, and it reflected negatively on his patrons.⁴⁷ Catullus specifically attacks both Pompey and Caesar for allowing it.⁴⁸ The poem was written perhaps in late 55,⁴⁹ in which case the address to Pompey may have special significance: Catullus addresses Caesar and Pompey as Mamurra's patrons, but more specifically Caesar as commanding officer was in a position to discipline Mamurra, and Pompey as consul was in a position to legislate. We know that Caesar was incensed by Catullus' attacks and Pompey, too, might have been embarrassed;⁵⁰ perhaps he felt he needed to be seen to act, even if with little chance of success. His proposal might have involved an element of blame-shifting—that is, holding Mamurra himself accountable for actions for which his commander, Caesar, would otherwise be answerable.⁵¹ However, the notorious behaviour of Mamurra and his ilk

⁴¹ See chapter 4 on this tendency in the development of the *lex repetundarum*.

⁴² *Cic. prov. cons.* 46. They appear to have approved of the content of some of Caesar's laws, including the *lex repetundarum*.

⁴³ *Restare* is not technical; the proposal may simply have been shouted down.

⁴⁴ See e.g. *Liv.* 39.19.7, the *SC de Asclepiade* of 78 (*CIL* 6.40890, partly restored), and the *Tabula Siarensis* of AD 19/20 (*RS* no. 37) fr. a, col. 2, ll. 21–2.

⁴⁵ Cf. Klodt 1992, 51 n. 134.

⁴⁶ Mamurra may have served previously with Pompey; see Broughton *MRR* 3.132.

⁴⁷ *Cic. Att.* 7.7.6 SB 130; Catull. 29; Plin. *NH* 36.48. Cf. e.g. Wiseman 1985, 105; Konstan 2007, 74.

⁴⁸ Catull. 29. 'Romulus' at ll. 5 and 9 is probably Pompey; see e.g. Quinn 1973, 176–7; Cameron 1976, 159–61.

⁴⁹ After Caesar's first expedition to Britain: see e.g. Lee 1990, 156; Cameron 1976, 156; McDermott 1983, 299; Konstan 2007, 73; Skinner 1981, 75.

⁵⁰ Suet. *Iul.* 73. Cf. Cairns 2003, 179.

⁵¹ Caesar was not above demonizing his subordinates: see Powell 1998, 117–21; Welch 1998, 95–6.

could have prompted Pompey's proposal irrespective of the date of Catullus' poem, which surely reflects more widespread sentiment.

The authors of the *sententiae* remain to be identified. This question has received little discussion,⁵² but one group comes immediately to mind: Cato and friends. Harshness and severity, though not *acerbitas* as such, are qualities strongly associated with Cato,⁵³ and the proposal was one which Cato surely would have approved. In 61–60 he had attempted to make equestrian jurors liable to charges of judicial bribery.⁵⁴ Since such charges were normally heard in the *quaestio repetundarum*,⁵⁵ it is possible that Cato's proposal would in effect have modified the extortion law.⁵⁶ Moreover, the issue was closely connected with the dispute over the Asian tax contract and (temporally, at least) with the *senatus consultum* on loans to free cities—that is, with provincial concerns.⁵⁷ Similarly, in 54 Cato's brother-in-law L. Domitius Ahenobarbus attacked the *equites* in the senate, linking both provincial and judiciary issues.⁵⁸ It seems clear that Cato was interested in equestrian accountability in a broad sense, and that this interest was bound up with his well-attested interest in the government of the provinces.

The specific mention of *scribae* in the *sententiae* represents an additional point of contact with Cato's known policy. As quaestor, Cato took it upon himself to reform the administration of the *aerarium*, where he uncovered numerous instances of accounts outstanding, fraud, and even falsified *senatus consulta* (Plut. *Cat. Min.* 16–17). Much of this, he determined, was due to the power of the scribes who effectively ran the treasury without adequate supervision from the less experienced (and frequently complicit) annual quaestors.⁵⁹ Cato's solution was more rigorous oversight and personal investigation of suspect documents and accounts. Plutarch writes that he expelled

⁵² Fascione (1974, 35) ascribes the *sententiae* to 'una certa flangia conservatrice', without further discussion; Venturini (1979, 468) merely notes their anti-equestrian intention. Presumably they were not Pompeians, who would surely have supported Pompey's original (milder) motion.

⁵³ See especially Cicero's caricature at *Mur.* 66. Note also the designation of Cato and friends as 'the *pauci*': e.g. *Caes. BC* 1.85.9; [*Sall.*] *ep. ad Caes.* 2.3.2.

⁵⁴ See above, n. 19. Cato may have been influenced by the example of his uncle M. Livius Drusus (cf. e.g. *Cic. Mil.* 16; *Plut. Cat. Min.* 1.1).

⁵⁵ See *Cic. Clu.* 103–4 and chapter 4, n. 13.

⁵⁶ The proposed law was not an extortion law, however, but a *lex de iudiciis*: *Cic. Att.* 1.18.3 SB 18.

⁵⁷ See chapter 4, 'Cato and the *lex Julia*'. The immediate prompt, however, was probably extensive bribery at the Bona Dea trial (see e.g. *Cic. Att.* 1.16.2–3, 5 SB 16).

⁵⁸ *Cic. Q. fr.* 2.12.4 SB 16. The occasion was a meeting of the senate to hear a delegation from Tyre and opposing claims from the tax farmers active in Syria. Cicero reports that Domitius, then consul, attacked the *publicani*, telling them (*inter alia*), 'These things have happened through your fault, Roman *equites*, for you give lax verdicts.' (*vestra culpa haec acciderunt, equites Romani. dissolute enim iudicatis.*)

⁵⁹ On the power and social position of scribes, see Purcell 2001, esp. 663–71.

the chief scribe from the treasury and 'brought a second to trial for fraud'.⁶⁰ The nature of the proceeding is uncertain, but the principle is clear: *scribae*, like more senior officials, ought to be held accountable for their actions.⁶¹

Cato intended to bring about lasting reform, to endure beyond his term as quaestor. A *lex Clodia* on scribes, perhaps of 58, may represent the official adoption of Cato's policy.⁶² Moreover, there is evidence that Cato pursued the same objective in a provincial setting. Appropriation by scribes, whether from public money or from the provincials, could be a serious problem. In the *Verrines*, for instance, Cicero describes a large deduction made *scribae nomine* from the money due to the Sicilian farmers for their corn.⁶³ It was the governor's responsibility to ensure that scribes behaved honestly;⁶⁴ however, that approach was subject to the usual pitfalls of dishonest governors and disgraceful acquittals—indeed, Cicero claims that Verres' scribe had acted with the governor's permission (*Verr.* 2.3.184).

The method by which scribes were appointed contributed to corrupt practices.⁶⁵ It was possible to buy a position as scribe, and Cicero (*Verr.* 2.3.184) indicates that unfit men entered the profession in this way. Scribes' duties were assigned by lot three years in advance in an attempt to limit corruption (Nicolet 1980, 332), but with limited success, as the above examples show. More than the official salary,⁶⁶ it was probably the opportunities for improper enrichment afforded by the scribes' work that attracted dishonest men. Further, service as *scriba* offered a path to equestrian rank.⁶⁷ Cicero reports that Verres presented his scribe with the gold ring that was the privilege of senators and *equites* (*Verr.* 2.3.185, 187). This opportunity for social advancement provided an additional incentive for illegal profiteering: Cicero insinuates that the equestrian *census* of Verres' scribe was supplied from the property of the Sicilians.⁶⁸ In this way, misconduct by a scribe who

⁶⁰ Plut. *Cat. Min.* 16.3: δευτέρῳ δέ τινι ῥαδιοιργίας προῦθῃκε κρίσιν.

⁶¹ The case is not listed in *TLRR*. It may have been some sort of internal proceeding, since Cato's colleague M. Lollius cast the decisive vote (Plut. *Cat. Min.* 16.3). Possibly the scribe was of equestrian rank; he was clearly well-connected, as he was vigorously defended by the censor Q. Catulus.

⁶² Suet. *Dom.* 9. The law evidently prohibited the quaestors' scribes from carrying on business. Purcell (2001, 667 n. 135) suggests a provincial context. Cf. Gruen 1974, 255; *RS* 1.384. The *Tabula Heracleensis* (*RS* no. 24) ll. 89–97, 98–107 reveals similar concern about conflicts of interest. The introduction of the *Acta Senatus* (Suet. *Iul.* 20.1) can also be seen as institutionalizing a function Cato had been carrying out privately (Plut. *Cat. Min.* 18.5); cf. Afzelius 1941, 130.

⁶³ Cic. *Verr.* 2.3.181–4. Cicero implies that the deduction amounted to both extortion and peculation (182).

⁶⁴ Cf. Cic. *Verr.* 2.3.182; *fam.* 5.20.1–2 SB 128.

⁶⁵ So Nicolet 1980, 332.

⁶⁶ The position was paid: Cic. *Verr.* 2.3.183.

⁶⁷ Nicolet 1980, 333. Some scribes may have been *equites* by birth, but most were sub-equestrian.

⁶⁸ Cic. *Verr.* 2.3.187; cf. Nicolet 1980, 333.

sought to make his fortune as well as recoup the price of his commission might parallel the 'investment' of higher magistrates in electoral bribery, to be reaped in the provinces. It could be argued, therefore, that they should be subject to the same extortion law.

Cato showed awareness of these problems during his mission to Cyprus. Plutarch (*Cat. Min.* 34.3) reports that, when Cato set out for Cyprus, Clodius gave him no ships, soldiers, or staff except for two scribes, one a thief and thoroughly corrupt, the other a client of Clodius. While it cannot be true that these were Cato's only assistants, the passage likely contains a kernel of truth: that Cato was again dissatisfied with the *scribae* assigned to him. As in his quaestorship, his solution was close scrutiny, personal involvement in the most important tasks, and meticulous account-keeping.⁶⁹ Against this background, it is all the more likely that in 55, a year after his return from Cyprus, Cato attempted to make scribes, other junior officials, and indeed the magistrate's entire cohort subject to the *lex repetundarum*.

It might be objected that Cato and friends would be unlikely to support (even in a pointedly harsh way) a proposal moved by Pompey, especially in the year 55, when Pompey had excluded Cato and his brother-in-law L. Domitius Ahenobarbus from praetorship and consulship respectively.⁷⁰ Gruen, for instance, notes Cato's proposal in 61 and Pompey's proposal in 55 as an example of 'continuity of attitude on legislative reform' between two political foes.⁷¹ He does not consider whether that continuity might have led Cato and friends to support Pompey's measure, despite their personal differences. In fact just that had happened in February 55, when they approved a *senatus consultum de ambitu* moved by the Pompeian L. Afranius at precisely the time when Pompey was contriving by bribery and falsified auspices to exclude Cato from the praetorship.⁷² If consensus was possible under those circumstances, it is hardly unthinkable that they would support Pompey in a meritorious reform that they themselves had long desired.

The reform failed. That illustrates, more than anything, the power of the equestrian class during the late republic. It is telling that Cicero who, in his speech for Rabirius, abhorred the very notion of subjecting equestrian officials

⁶⁹ Plut. *Cat. Min.* 36, 37.3, 38.2–3. See chapter 3, 'Cato in Cyprus'.

⁷⁰ See Plut. *Cat. Min.* 42; Dio 39.31.1; 39.32.1–2.

⁷¹ Gruen 1974, 242. Gruen effectively conflates Cato's proposal on judicial corruption and Pompey's on provincial extortion.

⁷² Cic. *Q. fr.* 2.8.3 SB. Cicero says that 'the consuls did not pursue the *sententiae* of those who, after agreeing with Afranius, added that the praetors should remain private citizens for sixty days after election' (*consules non sunt persecuti eorum sententias qui, Afranio cum essent adsensi, addiderunt ut praetores ita crearentur ut dies sexaginta privati essent*). It is a safe guess that this proposal came from Cato, or at least from Cato's circle (cf. Gruen 1974, 233 n. 93). It was intended to benefit Cato, as Cicero makes clear when he adds, 'That day [the consuls] flatly rejected Cato' (*eo die Catonem plane repudiarunt*). Cf. Plut. *Cat. Min.* 42.2, apparently a confused account of the same debate.

to the *lex repetundarum*, sought as governor of Cilicia to protect provincials by refusing prefectures to businessmen, though he remained wary of offending the *equites* and their senatorial friends.⁷³ But it is significant that an attempt at legislative reform was made, and made by the man sometimes misdescribed as ‘champion of the *equites*’.⁷⁴ If Pompey did have Cato’s support, as I have argued, the episode is the more significant as an illustration of the potential for issues-based cooperation even against a background of personal political antagonism.

THE TRIAL OF RABIRIUS POSTUMUS

The date of Pompey’s *relatio*

In the foregoing I have assumed the generally accepted dating of Pompey’s proposal to 55, during his second consulship. The *terminus ante quem* is the trial of Rabirius Postumus, which most scholars date to 54 or 53.⁷⁵ Cicero does not give a precise indication of the date,⁷⁶ but Pompey could only *referre ad senatum* as magistrate and Cicero’s words naturally suggest his most recent consulship.⁷⁷ Possible support comes from Cicero’s description of *altercationes* in the senate in November 55. We do not know what the dispute concerned, but Cicero says he was glad to be absent, ‘for I would either have had to defend something with which I did not agree or fail a man I ought not fail’.⁷⁸ Shackleton Bailey takes this as a reference to Crassus; Gelzer thinks of the debate over Caesar’s *supplicationes* and Cato’s counter-proposal to surrender Caesar to the Germani.⁷⁹ Neither solution is attractive: the fact that Cicero proceeds to discuss Crassus by name a few lines later (§2) suggests that he has someone else in mind here, and it seems unlikely that Cicero would have shrunk from supporting Caesar’s second *supplicatio*, having proposed

⁷³ Cic. *Att.* 5.21.10 SB 114, 6.2.8 SB 116. Pompey approved Cicero’s rule, albeit only after requesting a prefecture for a contract of his own. On the other hand, Cicero did grant prefectures to other friends of Brutus with interests in Cappadocia, on the grounds that they were not doing business in his province (*Att.* 6.1.4 SB 115).

⁷⁴ See chapter 2, ‘Profits of empire’. There was no attempt to make *equites* liable in their role as *publicani*, however.

⁷⁵ See ‘The date of Rabirius’ trial’, below.

⁷⁶ Cicero says the debate occurred *nuper* (*Rab. Post.* 13); however, he uses the word very loosely (see Linderski 1985, 252).

⁷⁷ Furthermore, the proposal would be a poor fit with the political climate of 70, when equestrian jurors were proposed as a solution to the corruption of senatorial courts (see chapter 1).

⁷⁸ Cic. *Att.* 4.13.1 SB 87 (15 or 16 November 55): *nam aut defendissem quod non placeret aut defuissem cui non oporteret*.

⁷⁹ Shackleton Bailey 1965–70, 2.198; Gelzer 1968, 131 nn. 1–2; 1961, 52.

the first (*prov. cons.* 27). Another possibility (though no more than that) is a reference to the debate on extending the *lex repetundarum*. Pompey's *relatio* would fit well Cicero's description of a proposal he did not like moved by a man he ought to support.

Klodt, however, would date both Rabirius' trial and Pompey's proposal to early 52, perhaps March.⁸⁰ Her arguments have found support (Berry 1996, 205–6), and certainly a move by Pompey, seconded by Cato and friends, to subject equestrian officials to the *lex repetundarum* would accord with the politics and policy objectives of that year.⁸¹ But Klodt's dating must be rejected. It depends on Cicero's statement that 'these days have been given over to injuring [Caesar's] *dignitas*,'⁸² which she takes as a reference to the period when Pompey's legislation as sole consul was under consideration.⁸³ It is doubtful, however, whether Pompey's laws were construed initially as an attack on Caesar.⁸⁴ 'These days' is much more likely to refer to the trial itself.⁸⁵ Prosecuting Caesar's old friend Rabirius could be seen as undermining Caesar's *dignitas*, all the more where Caesar's own financial interests were so heavily involved.⁸⁶

More critically, Klodt's dating would place Rabirius' trial before the trial of T. Annius Milo, which began on 4 April (Asc. 39C). It is inconceivable that, in the turmoil of those weeks, the *quaestio repetundarum* quietly convened to try an equestrian financier on a charge of receiving.⁸⁷ If the trial is to be dated to 52 it must be dated later still, to the winter of 52–51,⁸⁸ which is technically possible but would either produce an uncomfortably long interval between Rabirius' trial and Gabinius' or require dating Gabinius' trial to 52 as well. The former seems excluded by the fact that the same jury heard both cases (Cic. *Rab. Post.* 36), while the latter creates more problems than it solves.⁸⁹

⁸⁰ Klodt 1992, 47–51; cf. 2007, 599 n. 2. She also accepts 55 as a possibility (1992, 118).

⁸¹ See chapters 7 and 8.

⁸² Cic. *Rab. Post.* 44: *hos quidem sumptos dies ad labefactandam illius dignitatem*.

⁸³ Klodt 1992, 50; cf. 149 n. 127 and (more bluntly) 2007, 599 n. 2.

⁸⁴ Gruen 1974, 458–60 firmly refutes the view that the *lex Pompeia de provinciis* was an attack on Caesar or was regarded as such in 52. Cf. Siani-Davies 2001, 211 for an alternative interpretation of *Rab. Post.* 44, though in my view this is unnecessary.

⁸⁵ So Siani-Davies 2001, 211 and earlier commentators cited in Klodt 1992, 48 n. 126.

⁸⁶ Cic. *Rab. Post.* 41, 43–4; cf. e.g. *Balb.* 6, 16, where the prosecution of Balbus is portrayed as an attack on Pompey's reputation.

⁸⁷ On the events of March 52, see Asc. 36–8C; Ruebel 1979.

⁸⁸ Cic. *Rab. Post.* 42 indicates that the trial was held in winter.

⁸⁹ Such a delay seems improbable given the keen competition to prosecute Gabinius in 54. Admittedly the trial of M. Valerius Messalla Rufus was delayed even longer (see Cic. *Att.* 4.17.5 SB 91; Cael. *fam.* 8.2.1 SB 78, 8.4.1 SB 81), but Messalla could not have been tried in 53 owing to the interregnum followed by his own consulship, and the glut of *ambitus* trials may have prevented the case coming to court in 54 or 52; the fact that Messalla's original prosecutor was exiled in the meantime may have added to the delay (see Cael. *fam.* 8.1.4 SB 77; *TLRR* no. 328). Neither is Appian any support: he dates Gabinius' trials to 52 (*BC* 2.24), but his account is badly

Two years would also be an improbably long time for the Alexandrian witnesses to have remained in Rome.⁹⁰

We are left with the conventional dating of 54 or 53 for Rabirius' trial. In either case Pompey's *relatio* on the *lex repetundarum* belongs to 55. The choice between 54 and 53 warrants closer consideration, however, as it has important implications for Cato's conduct as *praetor repetundis*.

The date of Rabirius' trial

Rabirius was tried under the recovery provision of the *lex Julia de pecuniis repetundis* for allegedly receiving money from Gabinius.⁹¹ The date of Rabirius' trial therefore depends on the date of Gabinius' conviction. Gabinius was charged with extortion in October 54 and *divinatio* took place on 12 October.⁹² On 23 October he was acquitted of *maiestas*, but the timing of the *repetundae* trial is uncertain. The usual view is that it took place in November–December 54, closely followed by Rabirius' trial.⁹³ This is consistent with Dio's account (39.63.3), which suggests the trials were held in close succession, and the evidence of *Pro Rabirio Postumo* that Rabirius' trial was contemporary with Caesar's winter campaigns,⁹⁴ though the lack of any reference to Gabinius' extortion trial in Cicero's letters of 54 raises doubts over this chronology.

Lintott challenged this view on the grounds that litigation was 'almost impossible' from late October, as Cicero complained in the *Verrines*.⁹⁵ Certainly in 70 it was expected that the *ludi victoriae* and *ludi plebei* in October–November would prevent the court from sitting, and Cicero claimed that many of the remaining days would be unavailable as well (*Verr.* 1.31). Furthermore, Lintott argues that 150 days would have been necessary for Gabinius'

confused and certainly in error on the *maiestas* trial. Cf. Bucher 1995, who accepts a date for Gabinius' *repetundae* trial 'roughly concurrent' with the *maiestas* trial in 54.

⁹⁰ Cic. *Rab. Post.* 31–6. We might also expect some comment from Cicero about the dredging up of old matters.

⁹¹ Cic. *Rab. Post.* 8, 37; see below in this section.

⁹² Cic. *Q. fr.* 2.3.1 SB 22. Gabinius would have been charged prior to 20 September but for Cato's illness (*Q. fr.* 3.1.15 SB 21, with §17 on the date), which lasted until at least 1 October (*Att.* 4.17.4 SB 91).

⁹³ See Alexander 2002, 110 with review of scholarship in n. 2.

⁹⁴ Cic. *Rab. Post.* 42 with Siani-Davies 2001, 81, 209.

⁹⁵ Lintott 1974, 67; Cic. *Verr.* 1.31. Lintott cites Cael. *fam.* 8.10.3 SB 87 of 17 November 51 for that date as the close of the year (*nunc exitus est anni*), however Caelius is referring to the senate rather than the courts, and his belief that nothing could be done before 1 January is as much a comment on the slowness of the consuls as on the time of year. Cic. *Att.* 1.1.2 SB 10 of July 65 does suggest that most judicial business ceased between September and January (*a iudiciis forum refrixerit*), but this may not have been the case by 54 (see below in the text) and at any rate there was no actual bar to criminal proceedings in these months (cf. Greenidge 1901, 457).

prosecutors to conduct their *inquisitio* in Syria and Egypt. On this reckoning, the trial would not have begun until 53 and could not have begun until consuls were elected halfway through the year, since until that time there were no magistrates to convene the courts.⁹⁶ Lintott therefore dates both Gabinius' and Rabirius' trials to the second half of 53.⁹⁷

Fantham agrees that the trials could not have been completed in 54, but suggests that Gabinius' trial could have begun in December and extended into January 53 if the praetor Cato appointed himself *iudex quaestionis* to continue the trial during the interregnum.⁹⁸ Her argument is accepted by Siani-Davies (2001, 73–81), who favours the 'traditional' date of December 54 for both Gabinius' and Rabirius' trials, with possible extension into January 53. But Fantham's solution seems unlikely from a legal perspective.⁹⁹ A praetor's presidency of his court ended with his year in office.¹⁰⁰ If an outgoing praetor could assign himself to decide cases in the following year, it is surprising, given the highly political nature of Roman trials, that we hear of no other instances of this useful device.¹⁰¹ Indeed, the express provision of the epigraphic *lex repetundarum* that trials begun under one praetor should be continued by his successor suggests that proceedings would otherwise lapse.¹⁰² Lintott is probably right that no trials could have taken place in 53 until after the election of regular magistrates. However, there are other possible solutions to the problems Lintott identifies, which would allow that both trials were completed by the end of 54.

First, in the *Verrines*, Cicero almost certainly exaggerated the obstacles to litigation at the end of the year, as suited his rhetorical purpose.¹⁰³ He claims that, following the Victory Games and the Plebeian Games, there would be 'no days, or very few' (*aut nulli aut perpauci dies*) for hearing the case (*Verr.* 1.31). The Plebeian Games ended on 17 November (Bernstein 1998, 358). In fact, the remaining days in November were all comitial days, on which the courts could convene, followed by another fifteen days in December, and the seven NP days in that month were probably available as well.¹⁰⁴ Moreover, while

⁹⁶ Lintott 1974, 67–8. While, as Lintott notes, litigation was technically possible under an interrex, Cicero indicates that even private suits were impracticable (*fam.* 7.11.1 SB 34).

⁹⁷ Lintott 1974, 68 (cf. 1997, 2511; 2008, 246).

⁹⁸ Fantham 1975, 438–9 with n. 33. The argument depends on somewhat speculative dating and interpretation of Cicero's final letters of 54, particularly *Q. fr.* 3.7 SB 27, which she takes as evidence that the trial had not yet begun, and *Att.* 4.19 SB 93, which she sees as signalling Cicero's capitulation.

⁹⁹ Cf. Bucher 1995, 403.

¹⁰⁰ See e.g. *Cic. Verr.* 1.29; *Liv.* 42.22.7–8.

¹⁰¹ Theoretically, a situation like the interregnum of 53 need not have arisen at all if magistrates could effectively prorogue themselves.

¹⁰² *Lex rep.* ll. 72–3; Sherwin-White 1982, 27–8.

¹⁰³ The defence strategy had been to take advantage of delays due to public games and an earlier extortion case to prevent a verdict being reached before the end of the year.

¹⁰⁴ See Michels 1967, 78.

it was evidently not usual for the courts to convene on *dies festi*, the term is non-technical and there was probably no bar to a praetor convening the court if the official character of the day permitted.¹⁰⁵ Thus Lintott seems to perpetuate Cicero's ruse when he writes, rather vaguely, 'many of the remaining days of the year were not available'.¹⁰⁶ Other examples confirm that it was possible, if perhaps not ideal, to complete a trial very late in the year.¹⁰⁷

Secondly, we should not assume that the same obstacles existed in 54 as in 70. It is significant that Cicero, who does remark on the (brief) delay due to Cato's illness (*Q. fr.* 3.1.15 SB 21), gives no hint that the indictment of Gabinius in October was in other respects either unusual or impracticable, despite the prospect of an interregnum.¹⁰⁸ Further, if it was open to the prosecutors to approach a different praetor, we may assume that there was no disadvantage (and perhaps some advantage, as we shall see) in waiting until Cato recovered.¹⁰⁹ I think it possible that procedural changes were introduced between 70 and 54 to accommodate prosecutions brought late in the year.¹¹⁰ Given the large number of trials in the late republic, a move to use all available days would make good administrative sense. Some such change is demonstrable for the extortion court between c.123 and 54: the epigraphic *lex repetundarum* stipulated a special short form of procedure for charges brought after 1 September, which clearly did not apply when Gabinius was indicted.¹¹¹ Furthermore, Suetonius (*Aug.* 32.3) states that Augustus abolished the custom of convening the courts during November and December, which might

¹⁰⁵ Michels 1967, 82–3. In addition, it was probably technically possible for courts to convene on *dies comitiales* that fell during the games (83 n. 62; cf. *Cic. Cael.* 1 for this possibility under the *lex Plautia de vi*).

¹⁰⁶ i.e. after 17 November: Lintott 1974, 67.

¹⁰⁷ For instance, L. Murena's trial *de ambitu* took place in late November 63 (*TLRR* no. 224), and Cicero proposed to hear C. Manilius' trial at the very end of December 66 (*Plut. Cic.* 9.4–6). In December 60 the jury was being empanelled for C. Antonius' trial (possibly for *repetundae*) although the defendant was not yet in Rome (*Cic. Att.* 2.2.3 SB 22; Shackleton Bailey 1965–70, 1.352), and *Cic. Q. fr.* 3.7.3 SB contemplates the possibility of an *ambitus* trial in December 54 (see Shackleton Bailey 1980, 224).

¹⁰⁸ By the time of Gabinius' acquittal *de maiestate* Cicero was already anticipating an interregnum (*Cic. Att.* 4.18.3 SB 92) and there had been talk of a dictatorship as early as June (*Q. fr.* 2.14.5 SB 18).

¹⁰⁹ See Shackleton Bailey 1980, 209; Siani-Davies 2001, 75–6. Siani-Davies infers from the prosecutors' decision to wait that Cato was behind the prosecution.

¹¹⁰ Or between 65 and 54 (see n. 95, above). One candidate is Caesar's extortion law of 59, which introduced other procedural changes (see chapter 4). Another possibility is Pompey's general *lex iudiciaria* of 55 (*Cic. Pis.* 94; *Asc.* 17C); certainly Pompey's later legislation sought to improve the efficiency of the courts by providing for shorter trials (*Cic. fin.* 4.1; *Asc.* 36C; *Dio* 40.52.2).

¹¹¹ *Lex rep.* ll. 7–8. The procedure seems to have been essentially recuperatorial (see *RS* 1.97). Some scholars interpret 1 September as the usual cut-off for all prosecutions in the late republic (e.g. Greenidge 1901, 456; Siani-Davies 2001, 77), but that view seems very doubtful, for the 50s at least.

suggest that, at the end of the republic, the courts normally did sit during these months.¹¹²

In addition, many aspects of a trial could be shortened or even omitted in order to expedite the process. For example, Cicero truncated his *inquisitio* in Sicily and forwent the customary *perpetua oratio* to enable Verres' case to be decided within 70.¹¹³ As praetor in 66, he dispensed with all but one of the usual ten days before C. Manilius (tr. pl. 66) would have to appear, in order to hear the trial himself on the very last day of the year.¹¹⁴ Similarly, in 54 Cato granted M. Aemilius Scaurus' prosecutors an unusually short *inquisitio* to enable the trial to commence before the consular elections were due to be held;¹¹⁵ in fact the prosecutors never went to Sardinia (Cic. *Scaur.* 24; Asc. 19C) and they condensed the proceedings in other ways as well.¹¹⁶ In short, the praetor had considerable discretion to vary the usual course of a trial, and Cato, at Scaurus' trial, had already shown himself willing to use it. Finally, if the prosecution case was strong, the second *actio* might be no more than a formality,¹¹⁷ while *comperendinatio* (the adjournment compulsory in a *repetundae* trial) need have added only two days.¹¹⁸

It is possible that the *inquisitio* in the provinces was dispensed with entirely in Gabinius' case. Scaurus' prosecutor claimed that the whole case had been reported to him at Rome (Cic. *Scaur.* 24), and the same was likely true for Gabinius' prosecutor C. Memmius; certainly, as tribune in 54, Memmius himself could not have left Rome. Another possibility is that he had prepared the case in advance.¹¹⁹ Gabinius did not return to Rome until September 54 (Cic. *Q. fr.* 3.1.15 SB 21), but it was anticipated more than a year earlier that he

¹¹² In any case, this and subsequent changes under the principate (Suet. *Claud.* 23.1; *Galb.* 14.3) make it quite plausible that the judicial calendar was modified in some way during the late republic.

¹¹³ Cic. *Verr.* 1.6, 2.1.30. Hortensius complained, but was unable to prevent Cicero from availing himself less than fully of the privileges allowed him by law (*Verr.* 2.1.24–5). Presumably the praetor Glabrio raised no objection either.

¹¹⁴ Probably under the provision *quo ea pecunia pervenerit*: see Ramsey 1980, 329–30. Cicero explained that he had acted in Manilius' interests: Plut. *Cic.* 9.4–6; cf. Dio 36.44.1–2.

¹¹⁵ And/or brought forward the date of the trial: Asc. 19C; Cic. *Scaur.* 30. See Morrell 2014.

¹¹⁶ For instance, Triarius examined only one witness before *comperendinatio* (Cic. *Scaur.* 29).

¹¹⁷ In Verres' case, the second *actio* was required only to pronounce a verdict, followed by *litis aestimatio*: see Lintott 2008, 90.

¹¹⁸ Literally, *comperendinatio* means adjournment to the third day, though it could last longer due to games and other interruptions (Cic. *Verr.* 2.1.20).

¹¹⁹ Attacking Gabinius seems to have been Memmius' primary concern as tribune (references in *MRR* 2.223). We know nothing of his activities prior to 54, but it is possible he had visited the east. Properly, *inquisitio* occurred after *divinatio* and *nominis delatio* (see Greenidge 1901, 459–67), but it would not be surprising if the geographical extent of Rome's empire, combined with political pressure to secure convictions, produced a shift in the late republic towards preparing *repetundae* cases in advance. For instance, there could be no hope of prosecuting a praetorian governor who returned to seek the consulship before the end of the year if a long *inquisitio* was necessary in a distant province.

would be prosecuted.¹²⁰ Moreover, Memmius himself had applied previously to prosecute Gabinius for *maiestas* (Cic. Q. fr. 3.1.15 SB 21) and he also seems to have initiated a *iudicium populi*, for which hearings were held during October.¹²¹ According to Valerius Maximus (8.1.abs.3), the prosecution presented a comprehensive case. This suggests that little extra preparation would have been required for a trial in the *quaestio repetundarum*: the extortion case against Gabinius seems to have been brought on substantially the same grounds as the *maiestas* charge—that is, the unauthorized restoration of Ptolemy Auletes to the Egyptian throne—and the witnesses were already in Rome.¹²² In these circumstances, it is likely that the time allowed for *inquisitio* was much shorter than Lintott's 150 days, if there was any *inquisitio* at all.

The trial itself, too, could have been completed quite quickly. As we have seen, the time-consuming presentation of speeches and evidence could be shortened in various ways, so the first *actio* against Verres lasted only nine days (Cic. Verr. 2.1.156) and Scaurus' trial was completed comfortably within a month.¹²³ By way of comparison, Pompey's legislation of 52 provided for trials to be completed in just five days.¹²⁴ In addition, the case against Gabinius seems to have been fairly straightforward. The sum stated by the prosecution and assessed by the jury was exactly 10,000 talents (Cic. Rab. Post. 30)—precisely the amount of the bribe Ptolemy was alleged to have promised to Gabinius in exchange for his restoration (Rab. Post. 21), which suggests that the prosecution concentrated (perhaps exclusively) on that issue. It was, in effect, a retrial on the *maiestas* charge with the addition of a pecuniary element, and indeed Gabinius' conviction *de repetundis* was anticipated from the moment of his acquittal at the first trial (Cic. Q. fr. 3.4.1 SB 24). Conceivably the prosecutors, confident of a conviction on the main charge and conscious of the pressure of time, did not pursue other possible claims against

¹²⁰ News of Gabinius' actions in Egypt reached Rome by April 55 (Cic. Att. 4.10.1 SB 84) and in August Cicero anticipated the charges he would face (Pis. 48–50; see B. A. Marshall 1975 on the date). By early 54 various complainants had arrived in Rome (Dio 39.59–60; Cic. Q. fr. 2.12.2 SB 16) and in February the tribunes were planning some sort of action against the absent Gabinius (Cic. Q. fr. 2.12.3 SB 16). Cicero does not name the tribunes, but C. Memmius seems an obvious candidate.

¹²¹ Val. Max. 8.1.abs.3; Cic. Q. fr. 3.2.1 SB 22; Fantham 1975, 433–4.

¹²² For the background, see chapter 3, 'Cato's friends, Ptolemy, and corruption'. Overlap between the *lex maiestatis* and the *lex repetundarum* meant that a second prosecution could be brought on essentially the same facts (see Cic. Pis. 50 and chapter 4, 'The *lex Julia* and *maiestas*'). Cf. Klodt 1992, 34. The *iudicium populi* probably also concerned the restoration of Ptolemy.

¹²³ Scaurus was charged on 6 July, his trial began sometime after 9 August, and ended on 2 September (Asc. 18C; Cic. Q. fr. 2.16.3 SB 20). Within that period there were six NP days and one EN.

¹²⁴ Asc. 39C; cf. 36C; Cic. fin. 4.1; Caes. BC 3.1. For discussion see Gruen 1974, 233–9. Dio 40.52.3 and Tac. dial. 38 report that Pompey's procedural reforms applied to all courts, which is plausible (cf. Gruen 1974, 237–8).

Gabinus;¹²⁵ at any rate, no other damages were awarded. Presumably a trial effectively limited to one charge could be completed much more quickly than other *repetundae* trials, which frequently amassed a large number of charges and associated evidence.¹²⁶ If the *inquisitio* was also abridged or dispensed with, as I have suggested, it should have been possible to complete Gabinus' trial within 54, even taking Cicero's last letter to Quintus as *terminus post quem*.¹²⁷ Indeed, that letter contemplates the possibility of trials before the end of the year.¹²⁸

The nature of Rabirius' trial meant that little time was required following Gabinus' conviction. Rabirius was charged under the provision *quo ea pecunia pervenerit* on the basis that he had either received the bribe-money from Gabinus or retained it after raising it in Gabinus' name.¹²⁹ Cicero describes Rabirius' trial as 'a little appendage' to Gabinus'.¹³⁰ Proceedings under the recovery provision were heard on the same evidence and by the same jury as the main trial.¹³¹ This indicates that the two trials would normally take place in close succession and within the same calendar year, although time must be allowed for *litis aestimatio* and the realizing of assets following conviction.¹³² Rabirius' case was indeed heard by the same jury (Cic. *Rab. Post.* 10, 12) and the Alexandrian witnesses who had appeared at Gabinus' trial were still in Rome (31). Furthermore, Cicero three times (10, 34, 36) refers to Gabinus' trial as having happened *modo* ('just now' or 'a little while ago'), although this, like other such phrases, cannot be pressed.

It is likely that proceedings under the recovery provision could be completed very quickly. A possible example is the case of C. Manilius in 66, which Cicero proposed to hear on the last day of the year.¹³³ The charge was

¹²⁵ i.e. arising from his administration of Syria. Possibly Gabinus' prosecutors were unsympathetic to the *publicani*, who seem to have been the real 'victims' in Gabinus' province (Cic. *prov. cons.* 10; *Pis.* 41; *Q. fr.* 2.12.2 SB 16); cf. chapter 2, 'Pompey and the *publicani*', and Siani-Davies 2001, 66–72. Dio 39.55.5 looks like a confused reference to the bribe rather than a separate charge.

¹²⁶ See e.g. Cic. *Scaur.* fr. g and the Verrines, *passim*.

¹²⁷ Cic. *Q. fr.* 3.7 SB 27, dated by Shackleton Bailey to December 54.

¹²⁸ Cic. *Q. fr.* 3.7.3 SB 27 envisions that the candidate M. Messalla might stand trial for *ambitus* before the end of 54 (see Shackleton Bailey 1980, 224).

¹²⁹ Cic. *Rab. Post.* 8, 37–8. Rabirius was also supposed to have raised 10 per cent in his own name, but whether this was additional or a deduction was unclear even to Cicero (30).

¹³⁰ Cic. *Rab. Post.* 8 (*appendicula*). Indeed, it was probably not strictly a 'trial' (see Alexander 2002, 111–15).

¹³¹ Cic. *Rab. Post.* 36. In Rabirius' case, however, witnesses were called, and unusually the Alexandrians who had supported Gabinus testified against Rabirius (31–6).

¹³² *Litis aestimatio* involved determining which charges had been proved and assigning a value to each (see e.g. Greenidge 1901, 502–3; Sherwin-White 1952, 50–1). The process could have been completed quickly in Gabinus' case if, as I have suggested, the prosecution sought to recover only the 10,000-talent bribe. Gabinus' assets fell short of that amount (Cic. *Rab. Post.* 37).

¹³³ Plut. *Cic.* 9.4–6; cf. Dio 36.44.1–2.

apparently *repetundae*,¹³⁴ which raises a number of issues; Ramsey offers the plausible solution that Manilius was tried under the provision *quo ea pecunia pervenerit*, which would explain both the choice of court (an unusual forum in which to prosecute an outgoing tribune) and the timing.¹³⁵ If he is right, this suggests that proceedings under the recovery provision could be completed in as little as a day or two. Cicero's reference to the *dies* of Rabirius' trial, then, might well be literal (*Rab. Post.* 44). An illustration of how quickly trials could be completed once the evidence was before the court is provided by Pompey's legislation of 52, which limited the actual speeches to five hours,¹³⁶ though in Rabirius' case we know that some new evidence was produced (*Cic. Rab. Post.* 11, 31).

In sum, it seems possible to date both Gabinius' and Rabirius' trials to late 54, and recent scholarship favours this dating.¹³⁷ Both trials would thus have been conducted under Cato's presidency.¹³⁸ It remains to consider the implications of this for Cato's conduct as praetor.

Cato and the trial of Rabirius Postumus

I have argued elsewhere that Cato used his praetorship in 54 to wage a war on corruption that was innovative, often controversial, and entirely at odds with his conventional characterization as a conservative obstructionist (Morrell 2014). Cato acted as unofficial umpire of the tribunician elections, proposed a novel form of 'silent process' against the candidates for the consulship, and collaborated with the tribune Q. Mucius Scaevola in delaying the elections until anti-corruption measures could be put in place.¹³⁹ Most significantly, for present purposes, Cato used his discretion as *praetor repetundis* to enable Scaurus' prosecutors to accelerate the trial, and to prevent Scaurus from spending his money in the meantime.¹⁴⁰ The timing was critical because

¹³⁴ As praetor Cicero presided over the *quaestio repetundarum* (*Cic. Rab. Post.* 9), and Plut. *Cic.* 9.4 describes the charge against Manilius as κλοπή (theft or fraud).

¹³⁵ Ramsey 1980, esp. 329–30; cf. *TLRR* no. 205. The charge must have been brought in connection with some (unknown) earlier trial.

¹³⁶ Two hours for the prosecution and three for the defence: Asc. 36, 39C.

¹³⁷ Alexander 2002, 110; Siani-Davies 2001, 81. Lintott 2008, 246 defends his dating to the latter half of 53.

¹³⁸ Even if Rabirius' trial was ultimately heard by another praetor, Cato might still have been responsible for allowing it to go ahead, since trials begun under one praetor were continued by the next (*lex rep.* ll. 72–3; *Cic. Verr.* 2.1.30).

¹³⁹ Morrell 2014, 669–73, with references. The 'silent process' (*tacitum iudicium*) would have required each candidate to render an account of his campaign before a panel of *iudices* (*Cic. Att.* 4.17.3 SB 91; cf. Plut. *Cat. Min.* 44.2–3). The candidates' alarm suggests that it would have been effective, but the necessary legislation was not passed.

¹⁴⁰ See Morrell 2014, 673–9. Scaurus was acquitted, but for reasons that seem to have had little to do with the facts of the case (675).

Scaurus would become immune from prosecution if he became consul, and was less likely to be convicted if consul-elect, while the Sardinians could not hope for much in damages if Scaurus had already paid out his money as bribes.

We can detect the hand of a sympathetic praetor in Rabirius' case as well.¹⁴¹ Rabirius was charged under the provision *quo ea pecunia pervenerit*, to which *equites* were subject.¹⁴² Cicero does not dispute that point; however, he highlights various irregularities which, he says, amounted to 'a new and, until now, entirely unheard-of' form of procedure.¹⁴³ It was unprecedented, he says, for anyone to be charged under the recovery provision who had not been named in *litis aestimatio*.¹⁴⁴ At any rate the link to Gabinius was hazy, and the case against Rabirius actually conflicted in some ways with the earlier prosecution.¹⁴⁵ As Cicero points out, it was more likely Gabinius had received money from Rabirius (via Ptolemy) than the other way around.¹⁴⁶ At the same time, the prosecutor Memmius adduced material that would not have been out of place in a full trial for *repetundae* (or *maiestas*), but was entirely irrelevant to the recovery provision—for instance, that Rabirius had incited Gabinius to restore the king (Cic. *Rab. Post.* 19), and that the senate had been corrupted (6–7).¹⁴⁷ In effect, as Cicero complains, the recovery provision was being manipulated to accuse an *eques* of extortion.¹⁴⁸

This is not just rhetoric. A Roman juror did not deliver a separate verdict on different charges under the relevant statute, nor give reasons for his decision, but simply voted to acquit or convict. Neither, it appears, were all charges

¹⁴¹ And potentially Gabinius', too, if the trial was expedited as I have suggested. Cf. Siani-Davies 2001, 66–7, who suggests that Cato and friends were behind the prosecution of Rabirius.

¹⁴² This is clear from Cic. *Rab. Post.* 12. Cicero's objection is not that *equites* were exempt from the recovery provision, but that Rabirius was not really being tried under that provision, since he had not been mentioned at Gabinius' trial. Cf. Alexander 2002, 112.

¹⁴³ Cic. *Rab. Post.* 10: *novum et ante hoc tempus omnino inauditum*.

¹⁴⁴ Cic. *Rab. Post.* 9–10. It was also unusual to admit new witnesses (36–7). However, none of this constituted an actual bar to proceeding against Rabirius (cf. Cic. *Clu.* 115–16).

¹⁴⁵ Cic. *Rab. Post.* 34–5; cf. 30–1. In fact it seems reasonably clear that Rabirius was out for himself and his creditors, and dealing with Ptolemy directly to that end (see e.g. Cic. *Rab. Post.* 4–5, 22, 25–8, 41). In a letter of October or November 54 Cicero comments that those who had gone to Alexandria with *sygraphae* had been unable to recover their money (*fam.* 7.17.1 SB 31).

¹⁴⁶ See Cic. *Rab. Post.* 38 with Alexander 2002, 115–16.

¹⁴⁷ Rabirius' service as *dioecetes* (Cic. *Rab. Post.* 22, 28) and wearing of Greek dress (25–8) are also redolent of *maiestas* (cf. *Pis.* 48–50).

¹⁴⁸ See esp. Cic. *Rab. Post.* 11: *Non igitur reus ex ea causa quae iudicata est redundat Postumus, sed est adreptus unus eques Romanus de pecuniis repetundis reus*. ('Postumus therefore is not a leftover defendant from a case which has been decided, but a single Roman *eques* summoned as defendant on a charge of extortion.') Cicero deliberately blurs the distinction between the *lex Julia* proper and the recovery provision; technically, however, Rabirius was charged only under the latter. Cf. Siani-Davies 2001, 142; Alexander 2002, 112.

detailed and vetted in advance.¹⁴⁹ It was therefore possible for the prosecution to present and the jury to convict on the basis of technically inapplicable material.¹⁵⁰ For instance, at A. Cluentius' trial in 66 the prosecution made allegations of 'judicial murder', a charge which applied only to senators and magistrates (Cic. *Clu.* 148), and Cicero acknowledges that the jury might convict on that basis, even though Cluentius was an *eques* and had probably been indicted for attempted poisoning.¹⁵¹ A good juror, says Cicero, will observe the law, just as he will disregard personal prejudice, but it is in his *potestas* to do otherwise—in the language of modern law, to give a 'perverse verdict'.¹⁵²

Similarly, Cicero claims that the jury might convict Rabirius on the basis of charges to which he was not technically subject:

Hic iam, iudices, vestri consili res est, vestrae sapientiae; quid deceat vos, non quantum liceat vobis, spectare debetis. Si enim quid liceat quaeritis, potestis tollere e civitate quem vultis; tabella est quae dat potestatem; occultat eadem libidinem... (Cic. *Rab. Post.* 11)

Now this, *iudices*, is a matter for your counsel and your wisdom; you must consider what it is appropriate for you to do, not how much you are permitted to do. For indeed if you ask what is legal, you have the power to remove from the state whomever you wish. It is your voting-tablet that gives you that power; at the same time it conceals caprice...

Rabirius could not be convicted of extortion as such. Cicero exaggerates when he insinuates that a jury actually had the power to extend the scope of a statute.¹⁵³ But there was nothing to prevent the jury voting against him on the strength of extraneous allegations, whether or not they accepted what was in fact the only legally relevant argument, namely that he had received money from Gabinius. Indeed, in Rabirius' case, the extraneous material was possibly more damning than the evidence of receiving, which strengthens the suspicion that the latter was included chiefly as a means of bringing Rabirius to court.

¹⁴⁹ See Alexander 1982, 153–65; 2002, 184–5; cf. Riggsby 1999, 54. It fell to each individual juror to decide the applicability of the charges presented to him. Extraneous material could also be damaging to character, whatever its relevance to the case at hand.

¹⁵⁰ Presumably the praetor could prohibit the introduction of such material (see Cic. *Verr.* 2.5.163 for an example of a praetor intervening in a trial), but in neither Cluentius' case nor Rabirius' was the prosecution prevented from making legally inapplicable charges. This is another indication that Cato was sympathetic to Rabirius' prosecutors.

¹⁵¹ Cic. *Clu.* 164; cf. Alexander 2002, 184–6; 1982, 162–3. The prosecutor T. Attius argued that all laws should be binding on all citizens (Cic. *Clu.* 156, 160); in view of the contemporary debate on equestrian liability (152), his position need not be dismissed as a forensic ploy.

¹⁵² Cic. *Clu.* 159; cf. Alexander 1982, 162.

¹⁵³ Cic. *Rab. Post.* 15, 18–19. A 'perverse' decision might help pave the way to legal change, however. In England, for instance, the repeated refusal of juries to convict under laws perceived to be unduly harsh has prompted legislative reform (see e.g. Devlin 1991).

The praetor's role was also critical. Even allowing for Cicero's rhetoric, it appears the case against Rabirius was somewhat tenuous. Presumably the praetor—that is, Cato, if the dating to 54 is correct—could have refused to hear the case on that basis. It was the praetor's role *causam noscere*, 'to accept that there is a case', and we do hear of refusal.¹⁵⁴ Cato, however, not only accepted the case but evidently did not prevent Memmius from making damaging charges to which Rabirius, as an *eques*, was not legally amenable. In this light, Rabirius' trial can be seen, as Cicero suggests, as an attempt to achieve through the courts the reform that had failed in the senate.¹⁵⁵ This would be significant whoever the praetor was, but Cato seems a particularly likely candidate. Cato certainly thought that *equites* like Rabirius *should* be liable for extortion, and, at Scaurus' trial, he had already shown himself willing to use his praetorian powers in controversial ways in the pursuit of justice.

Siani-Davies (2001, 75–6) suggests that Cato was actually behind the prosecution of Rabirius. That is plausible. Either way, he was very likely sympathetic. Rabirius embodied much that Cato and friends opposed:¹⁵⁶ he had extensive interests in the public companies, besides moneylending on a vast scale.¹⁵⁷ Cicero indicates that Ptolemy was not the only king to whom Rabirius had made loans; we can only guess at what debt-collection activities he might have been responsible for in Roman provinces. In addition, Rabirius had close ties to Caesar, such that his trial constituted an attack on both Caesar's *dignitas* and his finances.¹⁵⁸ Worst of all, Rabirius had attempted to manipulate

¹⁵⁴ For the phrase, see RS 1.105; *lex rep.* ll. 42–3; *Cic. leg.* 1.11. In 51 the praetor M. Iuventus Laterensis refused to hear a case against M. Servilius under the *quo ea pecunia pervenerit* provision (*Cael. fam.* 8.8.3 SB 84); interestingly, Laterensis did accept charges of extortion proper against the same defendant, who was subsequently tried under the recovery provision as well (*TLRR* nos 337–9; cf. Lintott 1980).

¹⁵⁵ *Cic. Rab. Post.* 18–19: *Vos senatus liberos hac lege esse voluit, populus numquam adligavit, soluti huc convenistis; ne constricti discedatis cavete.* (19) *Nam, si Postumo fraudi fuerit, qui nec tribunus nec praefectus nec ex Italia comes nec familiaris Gabini fuit, quonam se modo defendent posthac qui vestri ordinis cum magistratibus nostris fuerint his causis implicati?* ('The senate has decreed that you [*equites*] should be exempt from this law, the people have never bound you to it, free of it you have assembled here; take care lest you depart in fetters. (19) For, if Postumus comes to grief, who was neither tribune nor prefect nor among the staff who left Italy with Gabinius nor his friend, how henceforth will those of your order defend themselves who have been implicated with our magistrates in these cases?') Indeed, §19 harks back to the terms of the *acerbae sententiae* at 13. Cf. RS 2.769, likewise suggesting that Rabirius' trial was an attempt to extend liability to non-senators by means of the recovery provision.

¹⁵⁶ Besides his antagonism towards the *equites* more generally, Cato seems to have shared his great-grandfather's attitude to usury (on which see e.g. *Cat. agr.* pr.1; *Cic. off.* 2.89): he made loans to friends interest-free (*Plut. Cat. Min.* 6.4), and may have been behind a *senatus consultum* of 51 which limited the legal rate to 12 per cent simple interest (*Cic. Att.* 5.21.13 SB 114); at any rate he seems to have approved the decree, which may have taken Lucullus' arrangements in Asia as its model (cf. *Plut. Luc.* 20.3).

¹⁵⁷ *Cic. Rab. Post.* 4. Rabirius also carried on business while in Egypt; Cicero says that Rabirius' cargo ships were the talk of the town for a summer (40).

¹⁵⁸ *Cic. Rab. Post.* 41, 43–4. Caesar had taken on Rabirius' debts.

Roman foreign policy to suit his own financial interests. Says Cicero, 'Here arises the first charge: they say the senate has been corrupted.'¹⁵⁹ Legally, the charge had no weight, but its moral force was enormous. Cicero does not deny it; he simply protests that the senate was not on trial, that the lender could not be held responsible for what the borrower did with the money, and that Postumus' case was entirely unconnected with the cause of the senate (*Rab. Post.* 6–7).

Rabirius had not simply lent money to the king, however. In 57 and again in 56 Ptolemy's creditors had engaged in open bribery, first to secure his restoration and later in an attempt to have Pompey appointed to the task.¹⁶⁰ It is a fair guess that Rabirius had contributed to the corruption of the senate in his own right, though that could not form the basis of any legal charge. In 57 Cato's ally M. Favonius had called for an inquiry into the murder of the Alexandrian ambassadors and bribe-taking by senators.¹⁶¹ In a sense Cato was taking up Favonius' call three years later when he allowed Rabirius to be brought to trial on very tenuous legal grounds.

The prosecution may also have drawn attention to the sufferings of the Egyptian people. As I noted in chapter 3, Cato is supposed to have met Ptolemy in 58 and urged him to seek reconciliation with his people rather than expose Egypt to Roman greed.¹⁶² Instead the Alexandrians had seen their ambassadors murdered, the hated king forcibly restored, and a Roman financier imposed on them to extract the money Ptolemy owed to Rome.¹⁶³ The epigraphic *lex repetundarum* explicitly extended its protections to foreign peoples and kings.¹⁶⁴ Probably an equivalent provision stood in the *lex Julia*, since the 10,000 talents at issue was money Gabinius was said to have received from Ptolemy.¹⁶⁵ At Rabirius' trial, the Alexandrians appeared as 'plaintiffs' in an ersatz extortion suit. The prosecution accused Rabirius of tyrannizing the Egyptian people with Ptolemy as his crony.¹⁶⁶ The Alexandrian witnesses who had supported Gabinius were ready to testify against Rabirius (*Cic. Rab. Post.* 31–2, 34–6), and it may be that he was accused of raising an additional

¹⁵⁹ *Cic. Rab. Post.* 6: *Hinc primum exoritur crimen illud; senatum corruptum esse dicunt.*

¹⁶⁰ *Cic. fam.* 1.1.1 SB 12; *Q. fr.* 2.2.3 SB 6; Dio 39.14.1.

¹⁶¹ Dio 39.14.1; see chapter 3, 'Cato's friends, Ptolemy, and corruption'.

¹⁶² *Plut. Cat. Min.* 35.4. Conceivably the story was circulated in connection with the trials of 54.

¹⁶³ See *Cic. Rab. Post.* 22, 28.

¹⁶⁴ *Lex rep.* ll. 1–4. Sherwin-White (1982, 19–21) suggests that the clause targeted the notorious bribes given by eastern kings.

¹⁶⁵ Cf. Alexander 2002, 116, who suggests that the prosecution at Gabinius' *repetundae* trial cast Ptolemy as the victim. Legally, it was irrelevant whether the money was given voluntarily or not.

¹⁶⁶ e.g. *Cic. Rab. Post.* 39: '*Dominatus est enim,*' inquit, '*Alexandreae.*' ('[Rabirius] played the despot,' says [the prosecutor], 'at Alexandria.')

Cicero replies that Rabirius was not Ptolemy's crony but his victim (22, 39, etc.), though his appointment as *dioecetes* was difficult to explain away (28).

10 per cent on top of the 10,000 talents (*Rab. Post.* 30). He was obviously despised in Alexandria.¹⁶⁷ Thus the prosecution touched on another area of special interest to Cato: the impact of Roman actions on foreign peoples. It also underscored the inadequacy of an extortion law which let *equites* like Rabirius exploit whole kingdoms with impunity.

CONCLUSIONS

The *lex Julia* of 59 offered significant new protections for provincials, but it was not a 'perfect' law. In 55 Pompey moved to correct one obvious deficiency by extending its application to equestrian officials. As in the analogous case of judicial bribery, his failure was due more to politics than policy. Cato and friends, however, were prepared to overlook personal enmities to support the reform. And Cato went further: his likely role in the trial of Rabirius Postumus suggests that he was trying to extend not only the application of the law but also its purpose, so as to police inappropriate Roman intervention in foreign kingdoms. What Pompey might have thought of Cato's actions is not clear. Pompey vehemently supported Gabinius. There is no hint that he supported Rabirius. On the other hand, Pompey and his friends were deeply embroiled with Ptolemy, whether or not we accept that Pompey himself had accepted bribes;¹⁶⁸ he was also heavily invested in other foreign kingdoms.¹⁶⁹ This seems to be one area, therefore, where Cato's scruples about foreign affairs went further than Pompey's.

¹⁶⁷ Cic. *Rab. Post.* 39; Gruen 1974, 329; Alexander 2002, 118.

¹⁶⁸ Suet. *Iul.* 54.3 says Caesar as consul accepted 6,000 talents, in his name and Pompey's, in exchange for Ptolemy's recognition. Dio (39.55.3) claims that Pompey effected Ptolemy's restoration out of kindness (τῇ χάριτι) rather than because he had received a bribe (cf. Plut. *Pomp.* 76.5).

¹⁶⁹ See chapter 2, 'Pompey's personal profits'.

Metus Parthicus

A striking example of the patchiness of the historical record, even for well-known periods of Roman history, is the silence of the sources on contemporary reaction to the news of M. Crassus' defeat at Carrhae with the loss of the better part of seven legions. Even cursory comparison with the *clades Variana* of AD 9 shows that the reaction must have been profound.¹ After the disastrous battle in the Teutoburg forest, Augustus is said to have gone about beating his head against doors and Tiberius was immediately dispatched to repair the situation.² Yet, after Carrhae, the proquaestor C. Cassius was not relieved for more than two years, and then by M. Bibulus, who had never held a provincial command. Some scholars have concluded that the reaction in 53 was disinterest or neglect.³ But there is more to the story.

In fact there was a strong response, but (unusually, perhaps) it did not involve retaliation. As Curran has shown, the task of 'avenging Crassus' was an invention of Caesar and his successors.⁴ Rather, Rome adopted a defensive, even conciliatory, stance towards Parthia. At the same time, steps were taken to secure the eastern provinces against the threat of internal rebellion through a programme of ethical administration. Significantly, it was in the months following Carrhae that a *senatus consultum* was passed that would dramatically transform the manner in which provincial commands were created.⁵ In short, the defeat and its aftermath prompted a major reassessment not only of Crassus' war but of foreign policy more generally, in line with principles long advocated by both Pompey and Cato.

¹ In magnitude, the disaster at Carrhae was at least as great as that in the Teutoburg forest. P. Quintilius Varus lost three legions along with the auxiliaries (Suet. *Aug.* 23.1); Crassus the *pars maior* of seven legions (Vell. 2.46.4; Plut. *Crass.* 21.7 gives figures of 20,000 killed and 10,000 captured in the course of the campaign). Comparison between the two was drawn early on (e.g. Vell. 2.119.1).

² Suet. *Aug.* 23.2; Dio 56.23.1; Vell. 2.120.

³ e.g. Wiseman 1992, 417; Sampson 2008, 149–51.

⁴ Curran 2007, 42; cf. Timpe 1962, 114.

⁵ That is, the *senatus consultum* of 53 that became the *lex Pompeia* of 52. See 'The *senatus consultum de provinciis* of 53', below, and chapter 7.

DISOWNING CRASSUS' CAMPAIGN

A possible exception to the silence of the sources on the contemporary response to Carrhae is a brief and little noticed passage in Lucan book 8, which might allude to senate discussion in the wake of the disaster: *quis enim post volnera cladis | Assyriae iustas Latii conpescuit iras?* ('For who, after the wounds of the Assyrian disaster, restrained Latium's rightful anger?').⁶ Pompey speaks these words as part of the message he wants addressed to the Parthian king, appealing for his support in the war with Caesar. The *Adnotationes super Lucanum* take the passage to mean that, after Crassus' defeat, Pompey dissuaded the senate from retaliating.⁷ Modern scholars adopt the same interpretation.⁸ This is very plausible, and an important contribution to our understanding of the period. Lucan appears to tell us what we would expect from the later sources, namely that there was an immediate call for a military response, followed by what might be considered more surprising: that Pompey opposed the call.⁹

Lucan's willingness to adjust, or even fabricate, historical events to suit his narrative is well known.¹⁰ Arbitrary invention, on the other hand, is not a feature of the work,¹¹ and the passage in question cannot be explained by dramatic considerations; it simply adds detail in a way that actually presupposes knowledge of an historical event.¹² It seems likely, therefore, that Lucan here preserves information from Livy or another source lost to us.¹³ Whatever our estimate of Lucan's historicity, however, 'Pompey's' attitude was the one that prevailed. In fact, in the years immediately following Carrhae, Rome showed more interest in disowning Crassus than in avenging him.

Crassus had left Rome with a properly authorized command and the public support of his consular colleague, Pompey.¹⁴ The legitimacy of invading

⁶ Luc. *BC* 8.233–4. Cf. e.g. Hor. *odes* 3.5, who complains of the moral weakness of the senate in allowing Crassus to go unavenged.

⁷ *Adnot. super Luc.*, ad 8.234: *mortem Crassorum . . . senatus voluit vindicare, sed Pompeius obstitit*. ('The senate wanted to avenge the death of the Crassi . . . but Pompey stood in the way.') The Carolingian *Adnotationes* preserve material from lost ancient sources, probably including Sallust and Livy (see e.g. Werner 1994, 393).

⁸ Riley 1853, 304 n. 2; Braund 1992, 298.

⁹ Pompey was the obvious candidate to lead any Parthian campaign—indeed, he was very nearly called upon in 51–50 (see further on in this chapter)—and many scholars judge him eager for the command.

¹⁰ See e.g. Lintott 1971, 489, with examples.

¹¹ See Mayer 1981, 112.

¹² Cf. Lintott 1971, 493.

¹³ Lucan used Livy extensively, though probably not exclusively; see e.g. Lintott 1971, 488–9 n. 6.

¹⁴ Crassus' command probably extended to Parthia by way of a general authority to make war: Dio 39.33.2; Keaveney 1982, 421–5. A Parthian campaign seems to have been anticipated in 55: Plut. *Crass.* 16.3; App. *BC* 2.18. For Pompey's support, see Plut. *Crass.* 16.3–4.

Parthia was debatable but, as Plutarch indicates, probably would not have been questioned had Crassus been victorious.¹⁵ The only criticism in 55 seems to have come from Cato and his associates, notably the tribune C. Ateius Capito, who attempted to prevent Crassus' departure and announced adverse omens.¹⁶ Cato probably joined him, as he had in opposing the *lex Trebonia*.¹⁷ Cato seems to have maintained that there was no *iusta causa* for a Parthian war,¹⁸ and may also have alleged a breach of treaty. According to Plutarch, 'many came together who were angry that anyone was departing to make war on people who were doing no wrong but were under treaty [with Rome].'¹⁹ It is doubtful whether these arguments would have had much effect on the crowd—Cato's proposal that Caesar should be handed over to the German tribes for breach of *fides* had not dented the general's popularity.²⁰ However, it seems that Cato and the tribunes were able to harness popular opposition to the levying of troops in their protest against the Parthian campaign.²¹ Dio (39.39.1) comments that the majority were moved to regret their support for Pompey and Crassus, and praise Cato and his adherents. Crassus was obliged to ask Pompey to escort him out of the city, and Cicero confirms that Crassus' departure was something of a debacle.²²

Following the defeat, however, allegations of personal greed and disregard-ing auspices were generated as a means of distancing Rome from Crassus and his war. Cicero's evidence shows that the process began very soon after Carrhae. In *De Finibus*, 'Cato' remarks that the Stoic sage 'will be more correctly called rich than Crassus, who, if he had not been needy, would never have resolved to cross the Euphrates with no cause for war'.²³ The dialogue is set in 52, just a year after Carrhae, and, as I argued in chapter 3, probably reflects opinions actually voiced by Cato in this period.²⁴ Further evidence comes from Plutarch, who has King Orodes' envoys enquire of Crassus whether he had been sent by the Roman people or had invaded

¹⁵ Except by the likes of Cato: see Plut. *comp. Nic et Crass.* 4.

¹⁶ See below in this section.

¹⁷ Along with Favonius and another tribune, P. Aquillius Gallus: Dio 39.34–5. On Ateius and Cato, cf. Cic. *Att.* 4.17.4 SB 91.

¹⁸ Cic. *fin.* 3.75 (see below in this section).

¹⁹ Plut. *Crass.* 16.3: καὶ συνίσταντο πολλοὶ χαλεπαίνοντες, εἴ τις ἀνθρώποις οὐδὲν ἀδικοῦσιν, ἀλλ' ἐνσπόνδοις, πολεμίων ἄπεισι. See Dio 39.39.1 for Cato's involvement.

²⁰ See esp. Plut. *Cat. Min.* 51.1–2; *comp. Nic. et Crass.* 4.3.

²¹ Dio 39.39.1–6. The tribunes proposed to annul the levies and rescind the *lex Trebonia*, which would have served both purposes.

²² Plut. *Crass.* 16.3–4; Cic. *Att.* 4.13.2 SB 87.

²³ Cic. *fin.* 3.75: ...rectius [appellabitur] dives quam Crassus, qui nisi eguisset, numquam Euphraten nulla belli causa transire voluisset. The idea that Crassus invaded Parthia out of avarice is also found in many later sources, e.g. Vell. 2.46.2; Dio 40.12.1; App. *BC* 2.18. Plutarch attributes the campaign primarily to Crassus' desire to outdo Lucullus and Pompey (*Crass.* 16.12).

²⁴ Cic. *fin.* 4.1; see chapter 3, 'Cato the practising Stoic'.

Parthian territory 'against the will of his country, as they were hearing, on account of his desire for personal gain', in which case the king was prepared to overlook the offence.²⁵ Ὡς πυνθάνονται might indicate actual communication between Parthia and Crassus' critics; at any rate, it is evidence of *Roman* claims that Crassus' war was unauthorized.²⁶

Allegations that Crassus had disregarded auspices and signs also appeared in the 50s. Cicero records the story of a fig-seller who seemed to cry 'beware of going' as Crassus prepared to depart from Brundisium.²⁷ Most significant were the *dirae* or contrary auspices announced by the tribune Ateius when Crassus left Rome.²⁸ As censor in 50, Ap. Claudius Pulcher expelled Ateius from the senate on the grounds that he had falsified auspices (Cic. *div.* 1.29). According to Cicero, Appius held Ateius responsible for the disaster at Carrhae, since what he falsified afterwards proved true. 'Quintus' in *De Divinatione* rejects this reasoning; if anyone's, the fault was Crassus'.²⁹ The arguments on each side probably reflect a blame game played out in the years following Carrhae, in which Ateius was seized upon as an alternative scapegoat.³⁰ Indeed, Ateius was alleged to have actually cursed Crassus, after Crassus failed to heed his announcements.³¹

In addition, Plutarch (*Crass.* 16.3) records the objection that the invasion of Parthia constituted a breach of treaty. According to Florus (*ep.* 1.46.4) and Orosius (6.13.2), Parthian envoys came to Crassus during the campaign and warned him to respect the treaties (*foedera*) made by Pompey and his predecessors. The legal position was ambiguous. Probably the most recent treaty, made by Pompey c.64, had been terminated by Gabinius' and/or Crassus' activities, if not the recent changes of personnel on the Parthian throne (Keaveney 1981, 200); neither can we be certain where Pompey fixed the frontier.³² What is clear is that the Parthians wanted Crassus to respect

²⁵ Plut. *Crass.* 18.1: τῆς πατρίδος ἀκούσης—ὥς πυνθάνονται—Κράσσοις ἰδίων ἔνεκα κερδῶν. Dio (40.16.1) has Orodes' envoys censure the invasion and ask the causes of the war.

²⁶ Cf. Caes. *BG* 1.44.12 on Ariovistus and the *optimates* for an example of an enemy leader in communication with opponents of a Roman general. Conceivably Cato's extensive eastern clientele (see 'The Parthian threat, 51–50', below) offered points of contact.

²⁷ In fact *Cauneas* ('Caunean figs'): Cic. *div.* 2.84. For other portents see e.g. Dio 40.17.3–19.4; Plut. *Crass.* 18.5, 23.1; Flor. *ep.* 1.46.3.

²⁸ Cic. *div.* 1.29–30; cf. Vell. 2.46.2–3; Flor. *ep.* 1.46.3; Plut. *Crass.* 16.5; Dio 39.39.6. For discussion, see Wardle (2006, 180–5), with further references.

²⁹ Cic. *div.* 1.29–30; cf. Rosenstein 1990, 72 n. 63.

³⁰ Cf. Plut. *Crass.* 16.5, who says that Ateius was criticized at the time.

³¹ Plut. *Crass.* 16.5; Dio 39.39.6. Simpson (1938) argues that the alleged curses are the product of confusion in later sources; most recently, Wardle (2006, 183) has defended the story. Keaveney (1982, 420) suggests that Ateius cursed Crassus so that the guilt of treaty-breaking would fall on him alone (cf. n. 36 on Vell. 2.46.3).

³² Plutarch reports that Pompey, in the 60s, refused to concede the Euphrates as the frontier and informed the Parthians that the border adopted would be the just one (Plut. *Pomp.* 33.6). However, later sources suggest that Pompey did draw a line at the Euphrates (Flor. *ep.* 1.46.4;

the border as previously defined.³³ Evidently they preferred to avoid war. Strabo (16.1.28) states that, previously, the Parthians were ‘anxious for friendship with the Romans’ (ἐφρόντιζον τῆς πρὸς Ῥωμαίους φιλίας), but they defended themselves when Crassus attacked.³⁴ It is likely this material, too, entered the source tradition soon after Carrhae, since Caesar and his successors are unlikely to have depicted the man they proposed to avenge as a treaty-breaker.

I suggest that the rewriting of Crassus after his death was not simply a matter of creating a scapegoat but part of an attempt to negotiate a ‘post-Carrhae’ policy. The theme of Crassus’ avarice, for instance, might have furthered the cause of moral reform. Florus (*ep.* 1.46.2, 6) is frank in making the disaster divine punishment for Crassus’ avarice and treaty-breaking, and the story of Crassus’ death by having molten gold poured down his throat (Dio 40.27.3; Flor. *ep.* 1.46.10) potentially served the same purpose—indeed, a parallel story about M’. Aquillius during the Mithridatic war makes Aquillius’ death a reprimand to all Romans (*universo nomine Romano*).³⁵ Similarly, allegations of treaty-breaking might have formed part of an argument for restoring peaceable relations with Parthia. Cato’s proposal that Caesar should be handed over to the Germani, in order that divine punishment might afflict Caesar alone and spare the city, makes him a likely source for the Crassus material as well.³⁶

POMPEY AND PARTHIA

Pompey, too, seems to have distanced himself from Crassus’ actions. The *lex Trebonia*, which created Crassus’ Syrian command and Pompey’s command in Spain, was very much a joint project and Pompey had made a public show of support on Crassus’ departure for the east.³⁷ Despite this, he showed no particular enthusiasm for a Parthian war and may have privately

Oros. 6.13.2) and Keaveney (1981, 209–11) seems to reach the same conclusion. Edwell (2008, 9–10) suggests that the Euphrates served as *de facto* frontier.

³³ Cf. Brunt 1990, 301.

³⁴ Cf. Dio 40.12.2, who states that Crassus’ first invasion was unexpected and that the Parthians had no effective defences at the river crossing.

³⁵ Plin. *NH* 33.48. Cf. App. *Mith.* 21. Zadorojniy (1997, 180 n. 60) suggests that the story of Crassus’ death was modelled on Aquillius’.

³⁶ Cato and Caesar: Plut. *Caes.* 22.4 (citing the contemporary source Tanusius Geminus); *Cat. Min.* 51.2; Morrell 2015a. In this connection, it is worth noting Velleius’ statement (2.46.3) that it would have been beneficial to the state (*utile... rei publicae*) if the *dirae* announced by the tribunes had afflicted Crassus alone and spared the army. Cf. Woodman 1983, 73–4.

³⁷ *Lex Trebonia*: e.g. Dio 39.33; Plut. *Pomp.* 52.3; *Crass.* 15.5. Crassus’ departure: Plut. *Crass.* 16.3–4.

disapproved.³⁸ That he and Crassus held very different views on empire is illustrated by the fact that Pompey sent legates to administer the Spanish provinces while Crassus embarked on an aggressive war.

Any endorsement from Pompey ended with Crassus' death. Instead, Pompey preferred to emphasize his friendly relations with Parthia, stretching back to the Mithridatic war. At that time, a territorial dispute between Parthia and Rome's ally Armenia had offered the pretext for a Parthian campaign, but Pompey chose not to fight and Dio states that he had no wish to.³⁹ Instead, Pompey appointed arbitrators, to which both sides submitted willingly, and he probably agreed a new treaty with Parthia, along the lines of those made by previous generals.⁴⁰ Afterwards Parthia was considered a friend of Rome and of Pompey in particular. Trogus refers to *amicitia* between Pompey and the Parthians formed during the Mithridatic war and Dio describes Pompey as a friend (*οἰκεῖος*) of Parthia, up to the death of Crassus.⁴¹

Most interestingly, Pompey presented himself as a friend to Parthia even after Carrhae and the Parthian incursions of 52–50. Lucan has Pompey say, in his appeal for Parthian assistance after Pharsalus, that Parthia is 'bound by my numerous services';⁴² that more than once he had preserved the sons of Arsaces (8.222–38). 'Pompey' is referring not only to his actions in the Mithridatic war but also to the aftermath of Carrhae, when he urged a conciliatory policy. Whether or not the historical Pompey used such arguments, the approach to Parthia in itself shows that he did not consider Carrhae to have closed the door on amicable relations with Parthia.

It is perhaps a measure of how successfully Rome, and Pompey in particular, had disowned Crassus' campaign that Pompey was able to call on Parthian assistance during the civil war. He sent C. Lucilius Hirrus to sound out Orodes around the time that he was securing the support of other eastern kings.⁴³ After Pharsalus, Plutarch (*Pomp.* 76.4) says that Pompey considered Parthia the best place to seek refuge and prepare for a rematch with Caesar. He was dissuaded by Theophanes, but Pompey seems to have been confident of Parthian assistance and the arguments raised against his plan focused on the

³⁸ Cic. *Att.* 4.9.1 SB 85 has Pompey 'spurning Syria, rejecting Spain' (*Syriam spernens, Hispaniam iactans*). Caesar encouraged Crassus' Parthian campaign (Plut. *Crass.* 16.3).

³⁹ Dio 37.7.1–2; cf. App. *Mith.* 106. According to Dio, Pompey was wary of overreach and of Parthian power (37.7.2) and ashamed of Tigranes' actions against Phraates (37.6.5). Pompey's haughtiness towards Parthia (e.g. Plut. *Pomp.* 38.2; Dio 37.6.2) should probably be understood as an assertion of Roman dominance rather than an attempt to pick a fight.

⁴⁰ Arbitrators: Dio 37.7.2–4; Plut. *Pomp.* 39.3–4. Treaty: Flor. *ep.* 1.46.4 and Oros. 6.13.2 with Keaveney 1981, 209–11; cf. Curran 2007, 38–9.

⁴¹ Just. *ep. Trog.* 42.4.6; Dio 41.55.3.

⁴² Luc. *BC* 8.235: *tot meritis obstricta meis*.

⁴³ Caes. *BC* 3.82.3–4; Dio 42.2.5. Dio suggests that Hirrus had been imprisoned by the Parthians, but there is no hint of this in Caesar. Dio 41.55.4 states that Parthia asked for Syria in return and no agreement was reached; after Pharsalus, however, Pompey was more willing to negotiate (cf. Luc. *BC* 8.235–8). See e.g. Dio 41.55.3–4 on the other eastern rulers.

dishonour of seeking assistance from Rome's enemy and the prospect of Pompey's wife being forced to live among barbarians, rather than any expectation that Parthia would refuse.⁴⁴ Recently, Curran has defended the credibility of Pompey's Parthian plan.⁴⁵

Apparently the Parthians were also prepared to distinguish Crassus' actions from those of the Roman state, and of Pompey in particular. They were willing to assist Pompey in the civil war, and, after his death, they actually did support a number of 'Pompeians' in their struggle against Caesar's heirs.⁴⁶ This course was partly dictated by self-interest. According to Trogus, the Parthians took the Pompeian side in the civil war not only out of friendship with Pompey but also because Crassus' surviving son was a Caesarian and they expected that, if Caesar was victorious, young Crassus would avenge his father's fate (Just. *ep. Trog.* 42.4.6). Curran cites this passage as evidence of Caesar's plans: after his death, Pompey's enemies 'gave early indications to suggest that energetically waged war with the Parthians would not be long delayed' (2007, 42 n. 58). By contrast, Curran ascribes to Pompey a 'distinctive Roman outlook on the Near East with which the Parthians had learned to live'.⁴⁷ Although Curran does not make the connection himself, his work bears out Lucan's testimony to Pompey's role in preventing major war between Rome and Parthia. This was not in fact a new policy, but the policy Pompey (and Rome) had consistently pursued until Crassus' campaign. In light of this, we should not assume that Pompey was thinking of a solution by force of arms when, in early 50, he called the Parthians 'his business'.⁴⁸

C. CASSIUS IN SYRIA

In 53, however, Rome did face a Parthian war, which fell to the responsibility of the proquaestor C. Cassius. Cassius had gone to Syria in 55 as Crassus' quaestor, and remained unrelieved in command of the province for over two years, from the death of Crassus in June 53 until Bibulus' arrival in August or September 51.⁴⁹ I suggest this was not 'neglect' on the part of the senate, nor

⁴⁴ Plut. *Pomp.* 76.5–6; Luc. *BC* 8.331–441. 'Lentulus' does question the reliability and the *virtus* of the Parthians (Luc. *BC* 8.361–90).

⁴⁵ Curran 2007, 40–2. Cf. e.g. Lintott 1971, 502.

⁴⁶ e.g. App. *BC* 4.59 reports that Cassius' forces in 43 included Parthian archers attracted by the reputation he had acquired in 53–51, and that Cassius later requested further support (4.63). Following the battle of Naulochus, more than a decade after Pompey's death, Sex. Pompeius hoped that his father's memory would gain him Parthian support (5.133).

⁴⁷ Curran 2007, 42; cf. Noé 1997, 416.

⁴⁸ Cic. *Att.* 6.1.14 SB 115: *suum negotium*.

⁴⁹ Ov. *Fast.* 5.465 dates both the battle of Carrhae and Crassus' death to 9 June. Bibulus left Ephesus by sea around the Ides of August 51, and Cicero expected him to reach Syria by 3 September: Cic. *fam.* 15.3.2 SB 103.

should we attribute it to preoccupation at Rome in these years.⁵⁰ Despite the *lex Pompeia de provinciis*, there was nothing to prevent the despatch of a more senior man after Pompey restored order in 52.⁵¹ Rather, the maintenance of a mere proquaestor for an extended period in the face of a major war must be a reflection of Cassius' abilities, but also of a less aggressive policy adopted by Rome after Carrhae.⁵²

Cassius was the only Roman to emerge with credit from Crassus' Parthian war. Indeed, Plutarch's account suggests that the disaster could have been averted if Crassus had only heeded Cassius' advice.⁵³ The soldiers, too, held Cassius in high regard. According to Dio (40.28.2), they offered Cassius the overall command after the initial disaster and Crassus was willing to concede it, though Cassius (very properly) refused. Interestingly, the Parthians also had marked respect for Cassius. Later sources state that they regarded him as Crassus' equal in authority and superior in skill.⁵⁴ Indeed, the reputation Cassius earned for himself as Crassus' quaestor in the 50s won him Parthian military support in 43 (App. BC 4.59, 63).

When Crassus' death left him in command, Cassius acted decisively, collecting the survivors of the battle and organizing them in an effective defence of the province.⁵⁵ Various sources attest his military achievements in 52–51. We can distinguish three incidents,⁵⁶ all of which Cassius overcame successfully: a Parthian incursion into Syria in 52, a rebellion in Judaea, and a more serious Parthian assault in 51. Cassius' actions were purely defensive, however. He repelled incursions, put down rebellions, and chased the Parthians out of Syria, but he did not attempt to cross the Euphrates or win back the territory gained and lost by Crassus. Indeed, the manner in which he was later able to cooperate with the Parthians suggests that Cassius had gone some way to conciliate them, perhaps by persuading them that *Pompey* had no aggressive intentions.

Following Carrhae, Parthia went on the offensive. Josephus makes clear that there were two Parthian incursions into Syria under Cassius, in 52 and again

⁵⁰ Compare Wiseman 1992, 417: 'Since Carrhae, Rome had neglected the eastern frontier'; cf. e.g. Sampson 2008, 149–51.

⁵¹ The *lex Pompeia* clearly did not alter the competence of the senate and people to create 'extraordinary' commands. During 52 Pompey's command in Spain was renewed for five years (Dio 40.56.2) and in 51–50 a Parthian command was in prospect (Cael. *fam.* 8.10.2–3 SB 87). Cf. Ferrary 2001, 107.

⁵² Neither, it appears, were additional troops sent to reinforce what remained of Crassus' army. An attempt to do so was blocked in 51 (Cic. *fam.* 3.3.1 SB 66).

⁵³ According to Plutarch, Cassius advised Crassus against invading Parthia (Plut. *Crass.* 18.4), or at least how best to do so (20.2, 23.3), but succeeded only in angering the commander (22.4), who promptly marched into an ambush (23.4–5). Afterwards, however, Plutarch's Cassius acts on his own initiative to retrieve the situation, so far as possible (27.5), and even seems to make the commander's decisions for him (28.5).

⁵⁴ Plut. *Crass.* 28.2–5; App. BC 4.59.

⁵⁵ Dio 40.28.2; Oros. 6.13.5.

⁵⁶ Fest. *brev.* 17.2 says Cassius fought the Parthians three times; Eutrop. 6.18 in several battles.

in 51.⁵⁷ Parthian activity in 52 may be best seen as opportunistic raids rather than an invasion attempt;⁵⁸ in this way Josephus' account can perhaps be reconciled with Dio's statement (40.28.1) that the Parthians did not cross the Euphrates or enter Syria until a later time. In any case, Cassius seems to have repelled this first incursion without difficulty.⁵⁹ Immediately afterwards, he was obliged to make a quick march to put down a rebellion in Judaea.⁶⁰ Probably the anti-Roman faction there hoped to take advantage of Rome's recent defeat and Cassius' occupation further north. But Cassius defeated the rebels, executed their leader Pitholaus, and settled matters in accordance with Antipater's advice. In addition, Josephus says Cassius took around 30,000 Jews captive in the city of Taricheae.⁶¹ Curran plausibly suggests that Cassius made an example of Taricheae because some of its population had welcomed the Parthians, much as Cicero would later claim to do with Pindenissum.⁶² The rebellion was the first example of the kind of opportunistic trouble Rome could expect after Carrhae cast Roman military supremacy into doubt, and deterrence was a priority. Parthian involvement is a fair inference. Parthian interest in the region was confirmed a decade later when the Parthians invaded Judaea, expelled Hyrcanus, and installed the pro-Parthian Antigonus as king and high priest (Joseph. *BJ* 1.248–73).

In 51 the Parthians invaded Syria again, and this time advanced as far as Antioch—that is, across almost the full breadth of the Roman province.⁶³ The invasion was led nominally by Pacorus, the son of the Parthian king Orodes, though in practice (owing to Pacorus' youth) by the experienced general Osaces.⁶⁴ Cassius was on the back foot initially, besieged in Antioch with his entire army. He was still there, it seems, in September 51.⁶⁵ But by late October or certainly November he had turned the situation around. Cicero wrote to Caelius on 14 November that Cassius had driven the Parthians back from Antioch in a successful action.⁶⁶ A later letter to Atticus adds that Cassius had pursued their retreat, and that Osaces had died as the result of a wound suffered in the flight.⁶⁷

⁵⁷ Joseph. *AJ* 14.119 reports Parthian incursions into Syria immediately following Crassus' defeat and Cassius' retreat into Syria with the remnants of the army. In *BJ* 1.180 he says that the Parthians marched into Syria following Crassus' defeat; in 1.182, after dealing with the rebellion in Judaea, Cassius returns to the Euphrates to prevent the Parthians crossing a second time. Cf. Bernhardt 1985, 109–10.

⁵⁸ Curran 2007, 39; Sampson 2008, 153.

⁵⁹ Dio 40.28.1; cf. Joseph. *BJ* 1.180.

⁶⁰ Joseph. *AJ* 14.119–22; *BJ* 1.180–2.

⁶¹ Joseph. *AJ* 14.120; *BJ* 1.180.

⁶² Curran 2007, 39; Cic. *fam.* 15.4.10 SB 110.

⁶³ See Dio 40.28.3; Cic. *Att.* 5.18.1 SB 111. Possibly the Parthians were taking advantage of the Jewish rebellion: Joseph. *AJ* 14.122 reports their advance while Cassius was still encamped in Judaea.

⁶⁴ Dio 40.28.3; Cic. *Att.* 5.18.1 SB 111.

⁶⁵ Cic. *Att.* 5.18.1 SB 111 (20 September 51).

⁶⁶ Cic. *fam.* 2.10.2 SB 86; cf. 15.14.4 SB 106, dated by Shackleton Bailey to 'latter October(?) 51'.

⁶⁷ Cic. *Att.* 5.20.3 SB 113 (19 December 51).

The later tradition on Cassius' achievements is universally positive.⁶⁸ Cicero's estimate depends on his audience. We know that he sent a letter congratulating Cassius, and a second is extant in which he speaks glowingly of Cassius' achievements (*fam.* 15.14 SB 106).⁶⁹ Writing to Atticus in December 51, Cicero allows Cassius a notable success against the Parthians, but tries to claim credit himself, though he had not even set foot in Syria (*Att.* 5.20.3 SB 113). Yet a later letter scoffs at Cassius' report of the incident and even declares that the Parthian withdrawal was 'not due to any success of ours'—that is, of Cassius'.⁷⁰ It is true that Cassius overstated the case if he pronounced the war at an end: the Parthians left Antioch but wintered in Roman Syria, in preparation for a major campaign the following season.⁷¹ But Cicero's caprice highlights the caution with which we must approach his evidence.⁷²

Quite apart from his military achievements, Cassius made a lasting contribution to the preservation of Syria by winning back the good will of the province. Cassius benefited from that reputation when he returned to Syria in the 40s. Cassius Dio remarks that 'Cassius hastened to the Syrians, who were well acquainted with him and friendly on account of the campaign with Crassus',⁷³ and that he was able to conciliate the cities thanks to his glory and the reputation he had made for himself as quaestor (47.28.1). But most interesting is the emphasis Orosius places on Cassius' moral qualities in the aftermath of Carrhae: he says that, once the news of the defeat became known, 'many eastern provinces would have revolted from the *societas* and *fides* of the Roman people, if Cassius had not, with a few soldiers scabbled together from the flight, repressed rising Syria with outstanding strength of spirit and *moderatio*'.⁷⁴

This suggests that Cassius' approach, in consolidating Roman rule in Syria, was very much in tune with the contemporary reform programme that

⁶⁸ Even hostile sources: see Vell. 2.46.4. Cassius' *res gestae* were considered significant enough to receive considerable space in the Livian tradition: see Oros. 6.13.5; Eutrop. 6.18.2; Fest. *brev.* 17.2. Liv. *per.* 108 is very condensed, but records Cassius' victory over the Parthians who had invaded Syria. Rawson (1986, 116–17) argues that Livy drew on a favourable—'perhaps over-favourable'—account of Cassius' exploits.

⁶⁹ Cf. Cicero's much later encomium at *Phil.* 11.35.

⁷⁰ Cic. *Att.* 5.21.2 SB 114: *sed nullo nostro εὐημερήματι.*

⁷¹ Cic. *Att.* 5.21.2 SB 114 (13 February 50). Note, however, that Cicero is writing with the benefit of hindsight. The Parthians' plans may not have been clear when Cassius sent his despatch.

⁷² Cf. 'Bibulus in Syria', below.

⁷³ Dio 47.21.2: *καὶ Κάσσιος μὲν πρὸς τοὺς Σύρους ὡς καὶ συνήθεις οἱ καὶ φίλους ἐκ τῆς μετὰ τοῦ Κράσσου στρατείας ὄντας ὥρμησε.*

⁷⁴ Oros. 6.13.5: *cognita clade Romanorum multae orientis provinciae a societate vel fide populi Romani defecissent, ni Cassius collectis ex fuga militibus paucis intumescentem Syriam egregia animi virtute ac moderatione pressisset.*

I explore in chapters 7 and 8.⁷⁵ Like Cicero and the other governors of 51–50, Cassius was defending his province not only against a direct military threat but against the threat of rebellion within Roman territory. Cassius' Pompeian connections may be relevant here;⁷⁶ it is even possible that he went to Syria as Pompey's man. In any case, Cassius' subsequent posting as commander of the Syrian squadron in the republican fleet (Caes. *BC* 3.5.3) is strong evidence that Pompey approved the actions he had taken in the aftermath of Carrhae.

THE PARTHIAN THREAT, 51–50

As Cassius' activities show, the 'Parthian threat' was not a figment of Cicero's paranoia. Bibulus and Cicero were sent to the east amid considerable anxiety about Parthia. In a letter written en route to Cilicia, Cicero is relieved to report all quiet on the Parthian front; a few days later he expressed concern that he had only two skeleton legions at his disposal.⁷⁷ These passages show that Cicero anticipated trouble from the Parthians during his time in the province. Later on, Cicero claims that he had been sent out with resources inadequate for what was expected to be a major war.⁷⁸ No doubt war seemed a real possibility from the moment in 53 when news reached Rome of Crassus' defeat. In fact, in 51 the senate ordered a levy in Italy to reinforce Cicero's and Bibulus' armies, though it was not held due to obstruction by the consul Ser. Sulpicius Rufus.⁷⁹ Meanwhile, Ap. Claudius was making preparations in Cilicia and advised Cicero that more troops were needed for the defence of the province.⁸⁰

When reports reached Rome in 51 that the Parthians had crossed the Euphrates, there was real alarm and a variety of proposals for sending Pompey, Caesar, or the consuls, though political issues prevented any action

⁷⁵ The rumour reported by Caelius (*fam.* 8.10.2 SB 87)—that Cassius had invented the Parthian invasion to conceal his own depredations—seems to have been entirely unfounded. *Vir. ill.* 83.3 does claim that Cassius traded in Syrian dates.

⁷⁶ There is little evidence, but Plut. *Brut.* 9 relates a story in which Pompey exercised quasi-paternal authority over the young Cassius, and we know that Pompey chose Cassius' cousin Quintus as quaestor *sine sorte* (Cic. *Att.* 6.6.4 SB 121), though he turned out to be a bad egg (see Gruen 1974, 110 n. 72). We might also think of some connection between Cato and Cassius, who was probably already married to Cato's niece (Münzer 1999, 323).

⁷⁷ Cic. *Att.* 5.14.1 SB 107 (27 July 51), 5.15.1 SB 108 (3 August 51); cf. 5.16.4 SB 109.

⁷⁸ Cic. *fam.* 15.1.4 SB 104 (18 September 51).

⁷⁹ Cic. *fam.* 3.3.1 SB 66 (shortly after 22 May 51). Sulpicius' aim is not stated.

⁸⁰ Cic. *fam.* 3.3.1 SB 66. The mutiny among Appius' troops (*Att.* 5.14.1 SB 107) may have been connected with his efforts. As Martin Stone pointed out to me, the 'gloominess of the times' (*tristitia temporum*) which had diminished Appius' liberality during his second year as governor (Cic. *fam.* 3.8.8 SB 70) must refer to changed circumstances after Carrhae.

being taken.⁸¹ Cicero expected war on a large scale and warned the senate and magistrates that, unless a large army was despatched immediately, all the provinces on which Rome's revenues depended might have to be given up.⁸² Even allowing for hyperbole,⁸³ the situation was clearly serious, or thought to be so (which was what really counted, at such a distance from the Parthian frontier), and by February 50 it was widely anticipated that Pompey would go to the east to take command against the Parthians (Cic. *Att.* 6.1.3 SB 115). By then the threat had increased: the Parthians were wintering in Syria (Cic. *Att.* 6.1.14 SB 115) and the king himself was expected to attack with his full force in the summer.⁸⁴ Pompey himself was calling the Parthians *suum negotium*;⁸⁵ indeed, Cicero seems to have expected him from the moment the Parthians crossed the Euphrates.

It was not only the direct threat of Parthian invasion that Rome had to worry about. The seeming Parthian ascendancy destabilized power relationships in the east, including the allegiance of client kingdoms, and even within Roman provinces. Osrhoene had already switched sides during Crassus' campaign, and Cicero suspected the trustworthiness even of Antiochus of Commagene, who had sent the intelligence of Armenia's realignment.⁸⁶ Conceivably Antiochus came by the information in connection with a mooted change of allegiance.⁸⁷ In any case he was no help to Rome when Parthian forces advanced through Commagene into Roman territory (Cael. *fam.* 8.10.1 SB 87). The only eastern king on whom Cicero thought Rome could depend at all was Deiotarus; the rest were unreliable both in terms of loyalty and resources.⁸⁸

⁸¹ Cael. *fam.* 8.10.1–2 SB 87. Evidently the threat was not serious enough for the various parties to set aside their differences, which perhaps did happen in 53, if the election of consuls took place after news reached Rome of Crassus' defeat (see 'The *senatus consultum de provinciis* of 53', below).

⁸² Cic. *fam.* 15.1.5 SB 104. Cicero later described his despatch as announcing a *tumultus*—in military terms, a sudden or imminent war (Cic. *Att.* 5.21.2 SB 114; cf. Cael. *fam.* 8.10.1 SB 87).

⁸³ Note that Bibulus declined to hold a levy although authorized to do so by the senate (Cic. *fam.* 15.1.5 SB 104); according to Cicero, however, his reason was that the troops raised would have been useless anyway. Cicero did hold a levy (Cic. *Att.* 5.18.2 SB 111). Gray-Fow (1990, 183) makes the sensible suggestion that Bibulus sent his sons to Egypt to draw on the garrison Gabinius had left there in 55.

⁸⁴ According to Deiotarus, Rome's most reliable informant: Cic. *Att.* 5.21.2–3 SB 114. Fighting did flare up in Syria in June (6.5.3 SB 118). By about 18 July, however, the Parthians had disappeared (*fam.* 2.17.1 SB 117; see 'Bibulus in Syria', below).

⁸⁵ Cic. *Att.* 6.1.14 SB 115. Cicero had received Pompey's letter by 20 February 50.

⁸⁶ Osrhoene: Dio 40.20–3; cf. Edwell 2008, 207 n. 20. Antiochus: Cic. *fam.* 15.3.1 SB 103, 15.1.2 SB 104.

⁸⁷ Commagene did support Parthia, in similar circumstances, in the 30s: see Sullivan 1977, 768.

⁸⁸ Cic. *fam.* 15.1.6 SB 104; cf. *Att.* 6.5.3 SB 118.

Armenia was of particular concern. It occupied a critical position between Parthia and Rome.⁸⁹ During the Mithridatic war, Armenia had been an ally of Mithridates and a major power in its own right, but became a friend and ally of Rome under Pompey's settlement and continued to support Rome up to and including Crassus' Parthian campaign.⁹⁰ After Carrhae, however, Armenia threatened to revert to Parthian allegiance. The sister of the Armenian king had married the son of the king of Parthia, and at the same moment that the Parthians crossed the Euphrates in 51, the king of Armenia was said to be considering invading the Roman client kingdom of Cappadocia.⁹¹ The situation was not clear cut: at the same time as the marriage alliance with Parthia, the daughter of the Armenian king was betrothed to the son of Rome's staunch ally Deiotarus (Cic. *Att.* 5.21.2 SB 114), and Cicero treats Artavasdes' inclinations as an open question (*fam.* 15.2.2 SB 105). But the potential threat was clear—even, it seems, before Cicero left Rome.⁹²

These developments recalled events leading up to the first Mithridatic war, when the Armenian king Tigranes II, as a Parthian vassal and ally of Mithridates, intervened in Cappadocia.⁹³ In the 90s, the alliance between Tigranes and Mithridates had tipped the balance of power in Asia Minor in favour of Mithridates. It could be seen, in fact, as a three-way alliance between Mithridates, Tigranes, and Parthia. These events—decades earlier but within the lifetime of many senators—will not have been forgotten, and the prospect of a replay in 51 must have caused concern.

Furthermore, Parthian occupation of neighbouring kingdoms opened the door for the invasion of Roman territory. Cicero was particularly worried about a joint Parthian–Armenian invasion of Syria and Cilicia through Cappadocia.⁹⁴ While he was confident of holding the mountain passes between Syria and Cilicia, Cappadocia was a weak point. It was bordered by kings, he says, 'who, even if they are friends of ours, do not dare to be open enemies of the Parthians'.⁹⁵ Cicero had been charged by the senate with protecting Ariobarzanes and his kingdom, probably before he left for his province.⁹⁶ He was also

⁸⁹ Cf. Tac. *ann.* 13.34.

⁹⁰ Artavasdes II (Tigranes' successor) offered Crassus support and advice for his invasion of Parthia (Plut. *Crass.* 19) and was attacked by Orodes because he supported Rome (Dio 40.16.2; Plut. *Crass.* 21.5). On Pompey and Armenia, see e.g. Cic. *Sest.* 58–9 and chapter 2.

⁹¹ Cic. *fam.* 15.3.1 SB 103; Plut. *Crass.* 33.1.

⁹² Thus the senate had commended the safety of Cappadocia to Cicero's care (Cic. *fam.* 15.2.4 SB 105; see below in this section).

⁹³ See e.g. Liv. *per.* 70; Plut. *Sull.* 5.3; Just. *ep. Trog.* 38.3.1; Sherwin-White 1992, 238; Olbrycht 2009, esp. 168–70. Ariobarzanes was expelled again during the third war (Cic. *leg. Man.* 12).

⁹⁴ Cic. *fam.* 15.2.1–2 SB 105, 15.4.4 SB 110; cf. e.g. Sullivan 1980, 1138–9.

⁹⁵ Cic. *fam.* 15.4.4 SB 110: *qui, etiam si sunt amici nobis, tamen aperte Parthis inimici esse non audent.*

⁹⁶ Cic. *fam.* 15.2.4 SB 105; cf. §8. The senate further decreed that 'the king's welfare is of great concern to the people and senate' (*salutem eius regis populo senatuique magnae curae esse*), something Cicero says was unprecedented.

specifically authorized to provide military assistance, if required (Cic. *fam.* 15.2.7 SB 105). The senate was not thinking only of Ariobarzanes' welfare: they realized, well before the Parthian crossing in 51, the Parthian threat and the strategic importance of Cappadocia.

The episode also tells us something about the central role Cato played in Roman foreign policy in this period, not only as the 'conscience' of Roman imperialism, but also in vital strategic matters. We know from Cicero that the motion about Ariobarzanes was passed on Cato's initiative.⁹⁷ In his private capacity as well, Cato had commended at least one other individual to Cicero, who duly established him in a position of influence at the Cappadocian court (Cic. *fam.* 15.4.6 SB 110). Further, Cicero wrote to Cato regarding Parthian movements c.3 September, considerably before his official despatch to the senate on 18 September (Cic. *fam.* 15.3 SB 103, 15.1 SB 104). Far from having his head in the clouds, as Mommsen claimed (1908, 4.455), Cato had an acute understanding of the internal affairs of friendly kingdoms (many of which, including Cappadocia, were his personal clients), as well as the broader strategic situation in the east.⁹⁸ He accurately predicted that Cappadocia would be critical, and played a leading role in determining Rome's response to the crisis.

Cicero enacted that response by way of a march through Cappadocia immediately upon arriving in his province, to demonstrate to the Armenian king and the neighbouring states Rome's military presence in the area (Cic. *fam.* 15.2.1–2 SB 105). He encamped at Cybistra, within Cappadocia, from where, he says, he could defend both Cappadocia and Cilicia, and forestall any *nova consilia*—that is, side-switching—on the part of neighbouring kingdoms.⁹⁹ He was supported in this by King Deiotarus (another of Cato's clients).¹⁰⁰ In fact the principal threat to Ariobarzanes' kingship was a conspiracy—apparently internal, but conceivably with foreign connivance—which threatened to issue into civil war.¹⁰¹ Cicero reports that he exposed the plot and consolidated Ariobarzanes' position by means of internal arrangements made, in part, on Cato's recommendation (*fam.* 15.4.6 SB 110). The danger over, Cicero felt Rome's military resources were better deployed on the Syrian border, where the immediate threat now lay (*fam.* 15.2.7 SB 105).

Perceptions of Rome's military strength were also important within Roman territory. Bernhardt (1985, 127) attributes the destabilization of the eastern

⁹⁷ Cic. *fam.* 15.4.6 SB 110 (*te auctore*).

⁹⁸ Cato's clients: Cic. *fam.* 15.4.15 SB 110; Plut. *Cat. Min.* 12.2. Cf. Eilers 2002, 260.

⁹⁹ Cic. *fam.* 15.4.4 SB 110. On the strategic importance of Cappadocia, see e.g. Sullivan 1980, 1138–9.

¹⁰⁰ Cic. *fam.* 15.4.15 SB 110; Plut. *Cat. Min.* 12.2. Plutarch records that Cato renewed his father's guest-friendship with Deiotarus during his tour of the east in the 60s.

¹⁰¹ Cic. *fam.* 15.2.5–6 SB 105, 15.4.6 SB 110.

provinces in this period to the blow Rome's ascendancy had suffered at Carrhae. That is not the whole story, however. A defeat could provide the catalyst for revolt, which is what seems to have happened in Judaea shortly after Crassus' defeat.¹⁰² But the experience of Roman rule was also critical. As Griffin observes, Romans were aware they possessed only limited resources for the maintenance of a large empire and therefore depended on the good will of the allies¹⁰³—that is, on ensuring Roman rule was preferable to all rival powers. The consequences of failing to do so had been illustrated graphically in 88, when Mithridates swept through Asia and had (reportedly) 80,000 Romans and Italians killed in a single day.¹⁰⁴ That lesson was not lost on Cicero and his contemporaries.¹⁰⁵

After Carrhae, Rome was clearly worried about disaffection within Roman provinces. There is no evidence of actual rebellion in Roman territory¹⁰⁶—indeed, at least one Syrian city seems to have actively defended itself against the Parthians¹⁰⁷—but the warning signs were there. Dio reports that the people of Syria hated Roman rule and were drawn to the Parthians after Carrhae 'as if to neighbours and people of like ways'.¹⁰⁸ Orosius, as we have seen, wrote that many eastern provinces would have revolted from Roman allegiance, if not for Cassius' excellence (6.13.5).

In the case of Cilicia, we have Cicero's statement that the province had become weak and embittered through the excess and injustice of Rome's *imperium*.¹⁰⁹ That did not necessarily translate into support for Parthia, an exception being the Free Cilicians in Pindenissum, who hoped that the

¹⁰² Conceivably with encouragement from the Parthians; see 'C. Cassius in Syria', above. Later, at least, there is evidence that the Jews of Palestine looked upon the Parthians as 'potential saviours': Smallwood 1976, 426. Trouble in Judaea may have been exacerbated by Crassus' actions in seizing the Temple treasure to fund his Parthian campaign (Joseph. *AJ* 14.105–9). Cf. Bernhardt 1985, 137–8, who argues that disaffection generally only led to defection in times of military crisis.

¹⁰³ Griffin 2008, 101–2. She sees Cicero in Cilicia as an example of this policy, made more urgent by the threat of Parthian invasion, and notes that Cicero expected the senate to accept this reasoning.

¹⁰⁴ See e.g. Memn. 22.9; App. *Mith.* 22–3; Cic. *leg. Man.* 7. There is reason to think that the Asian mission of Q. Mucius Scaevola and P. Rutilius Rufus in the 90s was designed, in part, to forestall the sort of situation that eventuated in 88 (see the introduction, 'Provincial reform before 70').

¹⁰⁵ See chapter 2, 'Pro Lege Manilia'.

¹⁰⁶ Cf. Bernhardt 1985, 110–11.

¹⁰⁷ Dio (40.29.1–2) reports that the Parthians unsuccessfully tried to take Antigonea after being repulsed from Antioch by Cassius. Bernhardt (1985, 110) sees this as a turning point in the allegiance of the east.

¹⁰⁸ Dio 40.28.4: ἄτε καὶ γένοιτο καὶ συνήθεις. It is conceivable that the Parthians actively exploited resentment of Roman rule, as Mithridates had done (e.g. Just. *ep. Trog.* 38.7.8; Cic. *Flacc.* 60–1; McGing 1986, 99–108).

¹⁰⁹ Cic. *fam.* 15.1.5 SB 104 (quoted below in the text). Cf. §3, which points to a want of Cicero's moral qualities in previous governors as the cause of disaffection in Cilicia.

Parthian war would prevent them falling to Roman rule,¹¹⁰ and arguably the unreliability of the local auxiliaries suggests a kind of passive resistance.¹¹¹ But what Cicero says is that the allies were ‘wavering in expectation of a new state of affairs’ (*novarum rerum exspectatione suspensos*).¹¹² In other words, they were yet to make up their minds whether or not to remain loyal to Roman rule. Cicero’s task was to ensure they made the right decision.

It is striking that in Cicero’s letters, not only to Cato but to the senate and magistrates, the threat to Rome’s eastern empire is attributed not so much to Parthian ambition or to Crassus’ defeat (which is never mentioned), but to misrule by Rome itself. Carrhae was no doubt in his readers’ minds, and we might suspect an element of ‘don’t mention the war’. Nonetheless, it is interesting that Crassus is never made a scapegoat for Rome’s troubles in Syria in the way that he was for the defeat itself. Instead, Cicero highlights the role of Roman misrule in undermining the loyalty of the eastern provinces. Private letters imply that Cicero was thinking particularly of his predecessor Appius. But the way he writes suggests corporate responsibility. *Imperium nostrum* (*fam.* 15.1.5 SB 104) is an inclusive term.¹¹³ If Cicero had meant to hint at Appius (or Crassus) alone he might have used *certi homines* or some other formulation; there was no need to include himself.

Indeed, Cicero gives the impression that the real threat to Rome’s eastern empire was not Parthian aggression but defection by disaffected *socii*. There is a clear implication in his letters that Roman administration in general had been lacking in key ethical qualities—*mansuetudo*, *integritas*, *continentia*, *aequitas*—and that this had undermined provincial loyalty towards Rome.¹¹⁴ For the same reasons, Cicero informed the senate and magistrates that Rome could not rely on the east for military assistance: ‘for the auxiliaries provided by the allies, on account of the bitterness and injustices of our rule, are either so weak that they are unable to help us much or so disaffected that it seems we should neither expect anything from them nor entrust anything to them.’¹¹⁵ In other words, misrule had not only damaged Rome’s position in an abstract or potential sense, but had diminished Roman military capacity. *Acerbitatem atque iniurias imperi nostri* is a shocking phrase, especially in an official despatch. Here it is intended to induce the senate to send more troops, but

¹¹⁰ Cicero claims, in justifying his campaign, that the Pindenissans had been harbouring deserters and preparing to welcome the Parthians: *Cic. fam.* 15.4.10 SB 110 (to Cato).

¹¹¹ Cf. Bernhardt 1985, 111.

¹¹² *Cic. fam.* 15.1.3 SB 104. Cf. 15.4.4, 14 SB 110 and Cato’s reply, *fam.* 15.5.1 SB 111 (discussed in chapter 3, ‘Cato in his own words’); Bernhardt 1985, 111.

¹¹³ Cf. Griffin 2008, 92–3, 102–3.

¹¹⁴ See *Cic. fam.* 15.3.2 SB 103, 15.1.3 SB 104, to be discussed shortly.

¹¹⁵ *Cic. fam.* 15.1.5 SB 104: *nam sociorum auxilia propter acerbitatem atque iniurias imperi nostri aut ita imbecilla sunt ut non multum nos iuvare possint aut ita alienata a nobis ut neque exspectandum ab iis neque committendum iis quicquam esse videatur.*

this willingness to admit Roman responsibility for the problems of Rome's empire is also a fundamental element of the new policy Cicero was following in 51–50. As I will argue in chapter 8, not only Cicero but his fellow governors, too, were consciously seeking to counter the ethical deficits of their predecessors and regain the loyalty of their provinces.

Cicero's efforts to secure Roman interests involved both a show of force and, most importantly, a well-publicized policy of good government. He hoped that the advance of his army into the Taurus would suppress those Cilicians who were in arms against Rome (*fam.* 15.1.3 SB 104), and his campaigns in the Amanus and Pindenissum were probably intended as an example to Rome's allies as well as neighbouring kingdoms.¹¹⁶ But Cicero was aware of the weakness of his military resources; if it came to it, he did not believe he could resist the Parthians by force of arms.¹¹⁷ Instead, he wrote to Cato, his greatest concern was 'that I should hold by my gentleness and restraint, and by the loyalty of the allies, what I can scarcely hold by resources and military strength'.¹¹⁸ An official despatch to the senate and magistrates makes much the same point (*fam.* 15.1.3 SB 104). The policy was probably settled on before Cicero ever set foot in his province, and he claimed success.¹¹⁹

Cato, too, acknowledged Cicero's achievement, both privately and in the senate. He praised Cicero for winning back the will of the allies to devotion to Roman rule and proposed in the senate that a province had been retained and protected by its governor's mild and upright administration.¹²⁰ Concrete evidence for these claims is hard to find, and the story might have been very different if the Parthians *had* invaded Cilicia. But the province gave Rome no trouble, and eastern support for the Pompeians in the civil war might be seen, in part, as a measure of the success of Cicero and his fellow governors in 51–50.

¹¹⁶ Cic. *fam.* 15.4.8–10 SB 110. Cicero states that these campaigns were important to his broader goal of defending Cilicia and Syria.

¹¹⁷ e.g. Cic. *fam.* 15.1.4 SB 104. Cicero does not seem to have been exaggerating; Caelius, at least, did not expect him to put up a fight (Cael. *fam.* 8.10.1 SB 87).

¹¹⁸ Cic. *fam.* 15.3.2 SB 103 (to Cato, c.3 September 51): *ut, quae copiis et opibus tenere vix possumus, ea mansuetudine et continentia nostra, sociorum fidelitate teneamus*. However, Cicero's second letter to Cato, written after the greatest threat to Cilicia had passed, explains that the passes between Cilicia and Syria could be held with minimal troops, though the Cappadocian border was harder to defend (*fam.* 15.4.4 SB 110, end of 51 or beginning of 50). In this letter Cicero also writes more positively about the forces at his disposal, including auxiliaries supplied voluntarily by free peoples and kings (§3), not least the army of Deiotarus (§7). Accordingly Cicero's emphasis changes (§4): 'I achieved what I would never have been able to achieve by means of legions' (*sum consecutus quae nullis legionibus consequi potuissem*). Cf. Cic. *fam.* 2.10.2 SB 86 (to Caelius, 14 November 51).

¹¹⁹ Cic. *fam.* 15.4.14 SB 110, quoted in chapter 3 ('Cato in his own words'). See chapter 8 on 'Cato's policy'.

¹²⁰ Cato *fam.* 15.5.1 SB 111. Cato's letter is discussed in detail in chapter 3, 'Cato in his own words'.

BIBULUS IN SYRIA

The Parthian war that Rome feared did not eventuate. Instead, in mid-50, the Parthians abruptly left Syria. Cicero's letters allow us to locate the news to within about three weeks. He writes of a major war in Syria as late as 25 or 26 June 50 (*Att.* 6.5.3 SB 119). Around 18 July, however, the threat had subsided (*fam.* 2.17.1 SB 117). Cicero emphasizes the suddenness and unexpectedness of the Parthians' departure.¹²¹ He was greatly relieved. For one thing, he no longer felt obliged to remain in his province until a successor arrived.¹²² However, he tells us nothing of the circumstances of the Parthian withdrawal, but simply attributes it to 'incredible good luck'.¹²³ The explanation cannot be that Cicero did not know. He, too, was involved in the war, and at times described himself as acting jointly with Bibulus.¹²⁴ Moreover, they were in regular correspondence during the crisis of 50.¹²⁵ And while, in later letters, Cicero could assume knowledge of Bibulus' despatch to the senate, that was not the case mid-year, immediately after the Parthian withdrawal. It seems fairly clear that Cicero did not want to be the one to tell Rome of Bibulus' role in the event.

Possibly jealousy or personal dislike of Bibulus led Cicero to suppress his achievements in Syria. When he does mention Bibulus' activities, he does so in a dismissive or competitive way.¹²⁶ Bibulus was not Rome's greatest general—Caelius was not impressed (*fam.* 8.6.4 SB 88)—but neither is Cicero the most reliable witness.¹²⁷ As we have seen, he also belittled Cassius' achievements, which are well attested by other sources. Cicero did soften somewhat towards Bibulus in June, after the death of two of Bibulus' sons in Egypt, and for once acknowledged Bibulus' position on the frontline of the Parthian war (*Att.* 6.5.3 SB 118). Once the threat had subsided, however, he changed his tune.¹²⁸

Cicero's remarks only become more catty after Bibulus sent the despatch that resulted in a twenty-day *supplicatio*.¹²⁹ Presumably Bibulus had claimed credit for the end of the war, by whatever means (see below). We

¹²¹ Cic. *Att.* 7.2.8 SB 125 (25 November? 50).

¹²² Cic. *fam.* 2.17.1 SB 117 (c.18 July); *Att.* 6.6.3 SB 121 (c.3 August 50). Cicero was due to leave his province on 30 July (e.g. *Att.* 5.3.1 SB 117); see chapter 7, 'The duration of commands' on the legal situation.

¹²³ Cic. *Att.* 6.6.3 SB 121: *incredibili felicitate*.

¹²⁴ e.g. Cic. *Att.* 7.2.6 SB 125; *fam.* 2.17.7 SB 117.

¹²⁵ Cic. *Att.* 6.5.3 SB 118. Cicero later complained that Bibulus never wrote to him regarding the Parthian war (*fam.* 2.17.6 SB 117), but this can only mean that Bibulus never asked for his assistance—for which Cicero was grateful.

¹²⁶ See e.g. Cic. *Att.* 5.20.4 SB 113 and below in this section.

¹²⁷ Modern scholars can be beguiled (e.g. Timpe 1962, 110; Gray-Fow 1990). More revealing testimony is the fact that Pompey entrusted Bibulus with command of his naval forces in 49 (sources in *MRR* 2.261).

¹²⁸ e.g. Cic. *fam.* 2.17.6 SB 117 (c.18 July 50).

¹²⁹ Cic. *Att.* 7.2.6–7 SB 125; cf. 6.8.5 SB 122, probably a reference to Bibulus' letter.

must infer a definitive Parthian withdrawal. Cicero, however, accuses him of fabrication: 'Regarding the triumph, I never had any desire for it before Bibulus' utterly shameless letter which resulted in the most generous supplication. If he had actually done the things he described, I would rejoice and support the honour.'¹³⁰ Indeed, if we were to believe Cicero, we would think that Bibulus had simply cowered in Antioch for the duration of the war: Bibulus, he says, 'so long as one enemy remained in Syria did not set foot outside the city gate any more than his own house when he was consul'.¹³¹ Yet even Bibulus' old *inimicus* Caesar allows that he had been besieged.¹³² In fact it seems Bibulus was employing the same strategy that Cassius had used to defend Antioch in 51, and it was perhaps in gratitude for Bibulus' success that the people of Antioch gave to Rome two statues which, according to Malalas (8.212), were afterwards displayed on the Capitol. Moreover, the *periocha* for Livy book 108 refers to Bibulus' *res gestae* in Syria, which suggests significant fighting.

Dio, by contrast, states explicitly and erroneously that peace reigned in Syria while Bibulus was governor.¹³³ Nonetheless, he credits Bibulus with ending the Parthian war by stirring up conflict in Parthia between King Orodes and his son, Pacorus:

καὶ αὐτὸς μὲν ἐν ἡσυχίᾳ τὸ ὑπήκοον διήγαγε, τοὺς δὲ δὴ Πάρθους ἐπ' ἀλλήλους ἔτρεψε· Ὀρνοδαπάτην γάρ τινα σατράπην ἀχθόμενον τῷ Ὀρώδῃ προσποιησάμενος, ἀνέπεισε δι' ἀγγέλων τὸν τε Πάκορον βασιλέα στήσασθαι καὶ ἐπ' ἐκείνον μετ' αὐτοῦ στρατεῦσαι. (Dio 40.30.2)

He [Bibulus] kept the subjects in peace, and turned the Parthians against one another. For, having attached to himself Ornodapates, a satrap who had a grievance against Orodes, he persuaded him by means of messengers to set up Pacorus as king, and with him to wage war against the other.

Despite his misconception of the situation in Syria, Dio's testimony to Bibulus' activities deserves to be taken seriously. Some confirmation comes from Trogus, who records that Pacorus aroused his father's suspicions during the invasion of Syria and was recalled into Parthia.¹³⁴ This evidence suggests that

¹³⁰ Cic. Att. 7.2.6 SB 125: *De triumpho autem nulla me cupiditas umquam tenuit ante Bibuli impudentissimas litteras quas amplissima supplicatio consecuta est. a quo si ea gesta essent quae scripsit, gauderem et honori faverem.*

¹³¹ Cic. Att. 6.8.5 SB 122 (1 October 50): *qui dum unus hostis in Syria fuit pedem porta non plus extulit quam <consul> domo sua.* Cf. 7.2.6 SB 125.

¹³² *In obsidione*: Caes. BC 3.31.3. This is to be distinguished from the earlier siege of Antioch under Cassius: the Parthians had retreated from Antioch before Bibulus arrived in 51 (Cic. Att. 5.21.2 SB 114; cf. *Phil.* 11.35).

¹³³ Dio 40.30.2, cf. 29.3. In fact Dio is unaware of any 'Parthian war' at all in 50. He dates the end of the war to 51, which is amply contradicted by Cicero's evidence.

¹³⁴ Just. *ep. Trog.* 42.4.5; cf. Curran 2007, 40. Note, however, that Trogus (42.4.5, 7) has Pacorus recalled while Cassius was in Syria. Possibly he has confused Cassius' temporary success with the definitive Parthian withdrawal in mid-50.

Bibulus brought about the Parthian withdrawal in part by diplomatic means.¹³⁵

Internal discord had significantly weakened Parthian power in recent times, and stirring up trouble was certainly in Roman interests.¹³⁶ But Bibulus' strategy may have gone beyond what Curran calls 'subversive diplomacy'.¹³⁷ From the scraps of information the sources provide, it seems possible that Bibulus was attempting to re-establish friendly relations with Parthia under a new monarch. Pacorus was young and evidently impressionable (Dio 40.28.3, 40.30.2), and his willingness to work with Romans (particularly of the republican or 'Pompeian' variety) is evidenced by his joint invasion of Syria with Q. Labienus a decade later, and his leadership of the Parthian force that came to the aid of Q. Caecilius Bassus.¹³⁸ There were foreseeable advantages for Rome if Pacorus had replaced his father, over and above the destabilizing effect of a change of sovereign. Gabinius had commenced a war against Orodes with the aim of restoring his brother, Mithridates, to the Parthian throne.¹³⁹ Subsequently Crassus was defeated and killed by Orodes' forces, and the king sent his son against Roman Syria. These events must have created considerable ill will on both sides (though not enough to prevent future cooperation). Pacorus, on the other hand, offered a relatively clean slate. Even though he was the nominal head of his father's forces, he probably seemed a more manageable prospect than Orodes—especially if, as Bibulus' plans suggest, he was susceptible to the influence of an aristocracy alienated from the king but relatively well disposed to Rome.¹⁴⁰

As it happened, Pacorus was recalled before Bibulus' scheme could progress very far (Just. *ep. Trog.* 42.4.5), and father and son were reconciled.¹⁴¹ In a roundabout way, however, it may be that Bibulus' efforts to turn the prince against his father actually facilitated contact between Orodes and the republicans during the civil war. In the event Pompey made no use of Orodes, but the king subsequently assisted a number of Pompeian commanders: Cassius and Caecilius Bassus both numbered Parthians among their forces, and

¹³⁵ As for Pompey in the east, military success may have provided the basis for diplomatic intervention (see chapter 2, 'The Mithridatic war').

¹³⁶ Parthia seems to have been plagued by crippling internal struggles from the death of Mithridates II in 87 until the end of the 70s, which period saw the ascendancy of Armenia, formerly a Parthian vassal state: see e.g. Olbrycht 2009, 177.

¹³⁷ Curran 2007, 39–40. Cf. Noé 1997, 412–13; Bernhardt 1985, 110.

¹³⁸ On Pacorus and Labienus, see Dio 48.24–6, Vell. 2.78.1, and Curran 2007, 44–7, who notes the importance of Labienus' Pompeian background. On Pacorus and Bassus, see Cic. *Att.* 14.9.3 SB 363. Cf. Dio 47.26.3–27.5 on Bassus' rebellion.

¹³⁹ Just. *ep. Trog.* 42.4.1; Joseph. *BJ* 1.175; Dio 39.56.2–3.

¹⁴⁰ Dio 40.30.2; Noé 1997, 412–13.

¹⁴¹ In fact, they seem to have been particularly close. There is no hint of discord between them in any of the ventures discussed below, and Just. *ep. Trog.* 42.4.11–14 reports Orodes' profound anguish after Pacorus' death.

Q. Labienus, who had been sent to Orodes before Philippi to request reinforcements, remained in Parthia after the battle and devised with Orodes the invasion of Syria led jointly by Labienus and Pacorus.¹⁴² Father and son seem to have collaborated in these undertakings. Despite the events of the 50s, Orodes, too, was quite prepared to work with Romans.

Bibulus' *supplicatio*

Bibulus' achievements in Syria were recognized with a twenty-day *supplicatio* proposed by his father-in-law, Cato (Cic. Att. 7.2.7 SB 125). Cato had previously refused to support a supplication for Cicero, and Cicero's verdict, that Cato had been 'disgracefully spiteful' (*turpiter* . . . *malevolus*) is shared by many modern scholars.¹⁴³ I suggest, however, that we should see Bibulus' *supplicatio* as evidence of the seriousness of the Parthian threat, rather than Cato's hypocrisy.

Wistrand (1979, 37–40) makes the important points that Bibulus' supplication was proposed and debated considerably after Cicero's, and in quite different circumstances.¹⁴⁴ It was grounded not on Bibulus' achievements in 51 but the events of 50, which had culminated in the end of the Parthian war. If Bibulus' activities had been primarily diplomatic, Wistrand observes, 'Cato's treatment of the two proconsuls would be difficult to defend' (39)—meaning, presumably, that *neither* would qualify for a triumph. But Bibulus could claim military successes that were much more significant than Cicero's, if only because he had been fighting Parthians rather than Cilician bandits.¹⁴⁵ In the circumstances, Wistrand concludes, Cato's actions were 'quite proper' (39).

Doubt remains, however, whether Bibulus could meet the formal requirement of 5,000 enemy killed in a single action—a requirement that Cato himself had actively sought to enforce (Val. Max. 2.8.1)—even if Cicero exaggerates when he says that Bibulus passed the whole war in Antioch

¹⁴² Cassius: App. BC 4.59, 63. Bassus: Dio 47.27.5; Cic. Att. 14.9.3 SB 363. Labienus: Dio 48.24.5–6.

¹⁴³ Examples in Wistrand 1979, 24, to which add e.g. Balsdon 1954, 281 and Kaster 2005, 134–5. Afzelius 1941, 126–8 takes a different view; Wistrand's own arguments are discussed below in the text. Cf. Hall 1996, 27–30, who accepts Cato's good will towards Cicero but holds that he did act inconsistently in Bibulus' case.

¹⁴⁴ The chronological point might be made more forcefully. Following Stein (1930, 103), Wistrand (1979, 23 n. 1) dates the debate on Cicero's *supplicatio* to May 50. Shackleton Bailey's dating of Cael. fam. 8.11.1 SB 91 would place it in April (1977, 1.419). In any case, Cicero's *supplicatio* was decided prior to the end of the Parthian war in mid-50 and the proposal of Bibulus' *supplicatio*, which Cicero first mentions in November that year (Att. 7.2.6 SB 125; cf. 6.8.5 SB 123, probably referring to Bibulus' despatch).

¹⁴⁵ Wistrand 1979, 38–40; cf. Afzelius 1941, 127.

(Att. 7.2.6 SB 125). Thus Wistrand's arguments do not absolve Cato of inconsistency. However, Wistrand sets too high a bar for himself when he assumes that the same standards applied to *supplicationes* as to triumphs, and evaluates Cicero's claim (and Cato's response) in terms of the latter.¹⁴⁶ As Cato reminded Cicero, a *supplicatio* was not simply a stepping stone to a triumph (*fam.* 15.5.2 SB 111), though in practice it often served that function. The two institutions were conceptually distinct and the technical basis for the decree of a *supplicatio* was quite different from the conditions for a triumph. This distinction is critical in understanding Cato's stance in 50.

Unlike the triumph, the *supplicatio* was traditionally a thanksgiving to the gods, not an honour to the general personally. This is clear from the usual formula *ut dis immortalibus haberetur honos*.¹⁴⁷ Furthermore, *supplicationes* were decreed not only as thanksgiving for victory, but also for expiatory or propitiatory purposes, unambiguously directed towards the gods.¹⁴⁸ This view never fundamentally changed,¹⁴⁹ although the late republic witnessed an increasing focus on the individual general (Hickson-Hahn 2000, 253). Thus Cicero says of the *supplicatio* for Caesar's victories in 57 that the thanksgiving itself was offered to the immortal gods, the customs of the ancestors, and the advantage of the state, but the wording and the number of days were a tribute to Caesar personally (*prov. cons.* 27). The same shift in emphasis can be seen in the way in which supplications are reported: where Livy regularly omits the name of the general, Cicero usually includes it, and most often in the dative, thereby making the general, rather than the gods, grammatically the recipient (Hickson-Hahn 2000, 253). Cicero certainly regarded the supplication as an honour to the general, including in his letter to Cato, where he calls the *supplicatio* 'the honour customarily awarded by the senate for military achievements',¹⁵⁰ an *honor* and *gratulatio* to himself (*fam.* 15.4.11 SB 110). Moreover, his appeal is firmly based on personal achievements, though, as I argued in chapter 3, Cicero emphasizes moral over martial qualities when writing to Cato.

Cato, on the other hand, clung to the traditional view.¹⁵¹ His letter to Cicero echoes the traditional phrasing of the decree of a thanksgiving *dis immortalibus*. In fact, Cato's words give the impression that a *supplicatio* has nothing to do with the actions of an individual general but rather with events that come

¹⁴⁶ Wistrand 1979, 25–34. It may be regarded as certain that Cato would not have supported Cicero's bid for a triumph.

¹⁴⁷ e.g. Livy 28.9.7; see Versnel 1970, 172 and Pittenger 2008, 128 n. 2 with further examples.

¹⁴⁸ See Halkin 1953, 9–13, with examples.

¹⁴⁹ For instance, the *supplicatio* which Cicero describes as voted *mihi* in *fam.* 15.4.11 SB 110 was in fact decreed in regular form *dis immortalibus... meo nomine* (Cic. *Cat.* 3.15).

¹⁵⁰ Cic. *fam.* 15.4.13 SB 110: *eum honorem qui a senatu tribui rebus bellicis solet*. Cf. e.g. *Cat.* 4.10; *Sull.* 85; *Pis.* 6; *Phil.* 14.24; *prov. cons.* 25.

¹⁵¹ Cf. Wistrand 1979, 32 n. 1.

about through chance (*fortuitus, casus*) and divine will.¹⁵² Neither does he allow any possibility of a *supplicatio* honouring *both* the general *and* the gods, as Cicero said of Caesar's *supplicatio* in 57; *dis immortalibus... quam tibi* is an either–or proposition.¹⁵³ This reasoning was doubtless unusual among Cato's contemporaries, but scholars have been too quick to dismiss it as hypocrisy—Cato's excuse for denying Cicero, promptly discarded when he wished to honour Bibulus.¹⁵⁴ The Parthian withdrawal was much more important than Cicero's victory over Pindenissum,¹⁵⁵ and could plausibly be presented as due to the gods. Cicero himself attributed it to a divine force (*deus, Att. 7.1.2 SB 124*) or *incredibilis felicitas*,¹⁵⁶ and he later wrote of the *Parthicus casus*.¹⁵⁷ In doing so, he implicitly justifies Cato's proposal. *Casus*, something that happens unexpectedly or by chance, is precisely the word used by Cato in the passage quoted to describe the proper subject of a *supplicatio*. In principle, therefore, it was not inappropriate for Cato to vote twenty days 'to' Bibulus, as Cicero puts it,¹⁵⁸ having chosen to honour Cicero with a speech on his moral qualities instead. Cato claimed that he had paid Cicero the greater honour and Cicero (for a time) was very pleased with it.¹⁵⁹

Without further evidence, it is impossible to assess how consistently Cato applied his principles. Despite what he wrote to Cicero, one suspects Cato *would* have gone on to support a triumph for Bibulus, technically merited or not.¹⁶⁰ However, it does not follow that his response to Cicero was a sham. Cato's restrictive attitude to triumphs and supplications was certainly not confined to Cicero's case.¹⁶¹ As for Bibulus, a majority of the senate—indeed,

¹⁵² Cato *fam.* 15.5.1 SB 111, quoted in chapter 3, 'Cato in his own words'.

¹⁵³ Cato could, however, have made a speech *and* voted for the *supplicatio*.

¹⁵⁴ See Wistrand 1979, 24.

¹⁵⁵ Even if Bibulus' success was purely diplomatic (Dio 40.30.2), that was no obstacle. Cato's previous support for civic supplications (Cic. *fam.* 15.4.11 SB 110) and Cicero's testimony to the value he placed on *mores, instituta*, and *vita* (15.4.14) suggest that Cato would have been *more* inclined to support supplications for peaceful victories.

¹⁵⁶ Cic. *Att.* 6.6.3 SB 121; cf. 7.2.8 SB 125 (*repente*). In doing so he probably undervalues Bibulus' role, whether military or diplomatic.

¹⁵⁷ Cic. *Att.* 7.26.3 SB 150; cf. 8.11.7 SB 161. In both passages the phrase is used as a simile for something lucky and unforeseen (cf. Wistrand 1979, 39 n. 1).

¹⁵⁸ Cic. *Att.* 7.2.7 SB 125 (*at hic idem Bibulo dierum XX*). Cato's actual proposal will have taken the traditional form (presumably, *dis immortalibus... M. Calpurnio nomine*).

¹⁵⁹ So he wrote not only to Cato (*fam.* 15.6 SB 112) but also to Atticus (*Att.* 7.1.7 SB 124). Cf. Hall 1996, 27–30.

¹⁶⁰ Cicero (*Att.* 6.8.5 SB 122) is surely right that Bibulus wanted a triumph. Afzelius (1941, 127) comments that we do not know whether Cato would have supported it or not. But even Cato allows that a *supplicatio* usually did lead to a triumph, and the exceptional length of Bibulus' supplication must have amplified that expectation. Earlier, Cato had been a vigorous supporter of Lucullus' triumph (Plut. *Cat. Min.* 29.3–4).

¹⁶¹ See chapter 3, 'Distinctively Stoic elements'. Furthermore, if Cato's intention had been purely spiteful, as Cicero later complained (*Att.* 7.2.7 SB 125), we might ask why he troubled himself to avoid offending Cicero (Cato *fam.* 15.5.3 SB 111).

a *frequens senatus*, if the proper quorum was observed—supported Cato's twenty-day proposal.¹⁶²

The length of Bibulus' *supplicatio* warrants further attention. Cicero was galled, but it was only Cicero who saw himself in competition with Bibulus. As Wistrand argues, Bibulus' *supplicatio* should be juxtaposed not with Cicero's but with Caesar's. Twenty days matched the record set by Caesar's supplications in 55 and 52 (Caes. *BG* 4.38.5, 7.90.8). With the prospect of civil war looming, Cato's proposal was intended, no doubt, to create some sort of equality between Bibulus and Caesar.¹⁶³ A long *supplicatio* might also have appealed as a means of obstructing tribunician legislation.¹⁶⁴ But another factor, surely, was the relief felt in Rome at the 'heaven-sent' end of the Parthian war.¹⁶⁵

THE *SENATUS CONSULTUM DE PROVINCIIIS* OF 53

The Parthian threat following Crassus' defeat at Carrhae was not only a military emergency but a timely wake-up call. Crassus became a scapegoat, yet just as striking is the awareness, reflected in Cicero's letters, of the damage done by endemic misgovernment. This coupling of strategic and ethical arguments provided the catalyst for the republic's most significant programme of provincial reform. In the years following Carrhae we find Pompey, Cato, Cassius, Cicero, and Bibulus all working to consolidate Rome's position in the east and to win back provincial good will. Meanwhile, legislative changes were put in place to support and systematize this endeavour. This project, to be discussed in detail in the remaining chapters, seems to have taken root immediately following the news of Carrhae.

The consuls of 53 were not elected until July of that year, and then only with Pompey's intervention.¹⁶⁶ It may have been the news from Parthia that persuaded the rival parties to set aside their differences long enough for elections to be held.¹⁶⁷ Unfortunately we cannot be certain when the news reached Rome, but a date before the elections seems fairly likely. The battle of Carrhae took place on 9 June (Ov. *Fast.* 6, Vestalia). Linderski (1972, 194)

¹⁶² Cic. *Att.* 7.2.6 SB 125. On the quorum, see Ryan 1998, 14–16.

¹⁶³ Cf. Wistrand 1979, 40; Kaster 2005, 135 n. 3.

¹⁶⁴ Curio was attempting to prevent such tactics earlier in 50 when he exacted a promise from the consuls that they would not make use of Cicero's supplication that year (Cael. *fam.* 8.11.1 SB 91).

¹⁶⁵ Cf. Wistrand 1979, 40.

¹⁶⁶ Dio 40.17.1–2, 40.45.1, 40.46.1. Perhaps late July: Dio says the consuls were elected in the seventh month; Appian (*BC* 2.19) that Rome was without consuls for eight months.

¹⁶⁷ Taylor (1949, 148) suggests that Pompey was called in by an SCU prompted by the news of Carrhae. Lintott (1974, 66 n. 56) prefers a decree referring solely to the elections.

calculates that word would have reached Rome between mid-July and the beginning of August. Given the gravity of the news and the time of year (the best season for travel), a date before the elections is entirely feasible—and it would otherwise be a startling coincidence that the long-delayed elections were finally held so close in time to the news of a major military disaster.

The new consuls' only known achievement was the passage of a *senatus consultum* providing 'that no one, having been either praetor or consul, should take up an external command before five years had elapsed'. According to Dio, they did this 'in the hope that, by not coming into any power immediately afterwards, they would cease their eagerness for office'.¹⁶⁸ This was the *senatus consultum* that became the *lex Pompeia de provinciis* of 52. Dio (40.46.2–3) describes it as a response to ongoing electoral violence and corruption. As I argue in the next chapter, however, it was not only an anti-*ambitus* measure but also a major reform which transformed the nature of provincial command and provided the framework for a new policy of ethical governance. Possibly it was passed in lieu of the regular decree under the *lex Sempronia* fixing provinces for the next year's consuls.¹⁶⁹

Some support for the view that the decree of 53 was explicitly concerned with provincial governance comes from Clodius' speech, probably late in 53, arguing that Milo's consular candidacy should be disallowed by reason of his debts. It was not appropriate, Clodius argued, for anyone to stand for the consulship who was so overwhelmed by debt that he would regard the *res publica* as plunder (Schol. Bob. 169St). The scholiast does not mention provincial extortion specifically, but the implication is natural,¹⁷⁰ and in fact we find *res publica* used in this period to encompass the provinces (Cic. *leg.* 3.41). Intention to exploit a province in order to repay debts was a common allegation to make against a political opponent.¹⁷¹ Still, Clodius' line of attack shows that extortion and electoral corruption were linked in public debate in 53. Conceivably, Clodius was exploiting the rhetoric of the senate's decree.

There is evidence that, the previous year, Romans were already thinking about a joint solution to the problems of provincial extortion and electoral corruption. Cicero records that the consuls of 54, Ap. Claudius Pulcher and L. Domitius Ahenobarbus, passed a *senatus consultum de provinciis*.¹⁷²

¹⁶⁸ Dio 40.46.2: δόγμα τε ἐποιήσαντο μηδένα μήτε στρατηγήσαντα μήθ' ὑπατεύσαντα τὰς ἑξω ἡγεμονίας, πρὶν ἂν πέντε ἔτη διέλθῃ, λαμβάνειν, εἴ πως ὑπὸ τοῦ μὴ παραντίκα ἐν δυνάμει τινὶ αὐτοῦς γίνεσθαι παύσαιτο σπουδαρχοῦντες. Cf. 40.46.1–2. The *comitia* for 52 were convened, but abandoned due to violence (Cic. *Mil.* 25, 41, 96; Schol. Bob. 169, 172St; Dio 40.46.3).

¹⁶⁹ See chapter 7. The same may be true of the *senatus consultum* of 54 discussed below. As far as we know, no magistrate of 53 or 52 proceeded directly to a province.

¹⁷⁰ Cf. Crawford 1994, 265; Rosillo López 2006–7, 173–4.

¹⁷¹ e.g. Caes. *BC* 1.4; Schol. Bob. 84St; Cic. *Pis.* 12.

¹⁷² Cic. *Att.* 4.16.5 SB 89, dated by Shackleton Bailey to about 1 July 54. The decree was probably passed in June. Cicero did not expect it to be effective.

Unfortunately Cicero gives only the opening formula, *quicumque posthac...* ('whoever henceforth...'), but the context of the notice suggests that the decree was concerned, in some way, with electoral corruption: it falls between a report of C. Cato's trial for electoral disturbances in 56 and Cicero's assessment of the four candidates' chances in the consular elections for 53. Scholars have identified this decree as a precursor to the *senatus consultum* of 53.¹⁷³ I would go further, and suggest that the initiative came from Cato, as in the case of another anti-*ambitus* strategy that year: the attempt to institute a 'silent process' (*tacitum iudicium*) against the candidates for the consulship.¹⁷⁴ Appius and Domitius, soon to enter a scandalous compact with two of the candidates, seem unlikely to have taken the initiative themselves.¹⁷⁵ On the other hand, it would parallel Cato's method in the case of the silent process if he pursued reform through the consuls, one of whom was his brother-in-law and political associate.¹⁷⁶

We might detect Cato's hand in the decree of 53 as well. The problems it addressed—*ambitus* and extortion—were of acute interest to Cato, especially in the wake of Carrhae, while his role in M. Aemilius Scaurus' extortion trial in 54 suggests that he treated them as two sides of the same coin, which was also a feature of the *senatus consultum*.¹⁷⁷ Cato was well placed to influence senatorial policy in 53: he had a personal connection with the consul M. Valerius Messalla Rufus through Messalla's uncle Hortensius,¹⁷⁸ and had been instrumental in having both consuls elected (Plut. *Pomp.* 54.2–3; Dio 40.46.1). Furthermore, the mechanism of the *senatus consultum*—the imposition of periods of private status between magistracy and promagistracy—had a precedent in Cato's proposal that the successful praetorian candidates for 55 should remain private citizens for two months after election.¹⁷⁹ Since the elections for 55 were held after the beginning of that year, the candidates elected normally would have assumed office immediately and so become immune from prosecution. Cato's proposal sought to create a window in which criminal charges could be brought.¹⁸⁰ Likewise, the *senatus consultum*

¹⁷³ So Cobban (1935, 82) and Vervaeke (2006, 654 n. 102); cf. Steel 2012, 88 n. 21.

¹⁷⁴ Cic. *Att.* 4.17.3 SB 91; Plut. *Cat. Min.* 44.2. See Morrell 2014, 671–2.

¹⁷⁵ Cic. *Att.* 4.15.7 SB 90, 4.17.2 SB 91. Moreover, the consuls entered into the pact in order to secure their provincial expenses grants (cf. Sumner 1982, 135–7). They therefore seem unlikely architects of a reform directed against electoral corruption and the exploitation of the provinces.

¹⁷⁶ The *tacitum iudicium* was also a consular motion, though not to the consuls' liking (Cic. *Att.* 4.17.3 SB 91).

¹⁷⁷ Scaurus' prosecutor P. Valerius Triarius drew an explicit connection between the two (Asc. 19C), and Cato seems to have cooperated with Triarius in conducting the trial in such a way as to prevent Scaurus from paying out his (alleged) spoils as bribes (Morrell 2014, 677–9).

¹⁷⁸ See Val. Max. 5.9.2 on Hortensius and Messalla and chapter 7 ('Pompey, Cato, and the politics of Milo's trial') on Cato and Hortensius.

¹⁷⁹ Cic. *Q. fr.* 2.8.3 SB 14; see chapter 5, n. 72.

¹⁸⁰ In the late republic elections were normally held around July, meaning that successful candidates were open to prosecution for some months before they entered office on 1 January.

of 53 meant that a magistrate could not evade prosecution at the end of his term in office by proceeding immediately to a province.¹⁸¹ Thus, while Cato's involvement cannot be proved, it seems very plausible and is strengthened by the manner in which the decree was implemented in 52–50.¹⁸²

Another precedent was provided by Pompey. Steel (2001, 217–25) observes that the separation of civic and provincial magistracies in effect regularized aspects of Pompey's extraordinary commands. Pompey's distinctive view of empire, she suggests, may have enabled him to perceive wider implications of the *senatus consultum* of 53 which the senate did not intend at the time (225). But Pompey might equally have been one of its architects. I have argued that the decree was devised, from the outset, with the provinces in mind. Pompey's involvement would accord both with Cato's appeal—that he take charge of law and order¹⁸³—and with Pompey's long-term goal of improving the administration of the empire. That goal was all the more urgent in the wake of Carrhae.

The status of *designatus* provided no legal protection, though in practice the conviction of a magistrate-elect was more difficult to secure: Cic. *Att.* 4.15.9 SB 90; Weinrib 1971, 149 n. 8.

¹⁸¹ See chapter 7, 'The *lex Pompeia de provinciis*' on this and other functions of the *senatus consultum/lex Pompeia*.

¹⁸² See chapters 7 and 8.

¹⁸³ Plut. *Pomp.* 54.3: τῆς εὐκοσμίας ἐπιμελεσθῆναι.

The *lex Pompeia de provinciis*

As sole consul in 52, Pompey ‘confirmed’ the *senatus consultum* of the previous year requiring a five-year interval between civic magistracy and provincial command (Dio 40.56.1). The result was the *lex Pompeia de provinciis*, which transformed the way in which provincial governors were appointed and ushered in a new policy of ethical administration associated particularly with Cato.¹ The decree of 53 shows Cato’s hand,² and I argue here that the *lex Pompeia* should be seen as the product of collaboration between Cato and Pompey. Shackleton Bailey made a similar suggestion in his commentary on Cicero’s letters.³ Gruen rejected it, on the grounds that ‘Cato is not the most likely of individuals from whom [Pompey] would seek advice’.⁴ However, a review of the political context of 52 indicates that Pompey and Cato were cooperating closely in precisely the period when the *lex Pompeia* was passed.

POMPEY AND CATO IN 52

In the intercalary month of 52, in the aftermath of Clodius’ death and ongoing violence, Pompey was elected *consul sine collega* on the initiative of Cato and

¹ The title of the law has no ancient authority. Possibly what most scholars call the *lex Pompeia de provinciis* in fact formed part of Pompey’s *lex de iure magistratuum* (Suet. *Iul.* 28.3). Caes. *BC* 1.85.9 says, concerning provincial appointments, *in se iura magistratuum commutari* (‘the rights of magistrates are changed against me’), and Dio (40.56.1) mentions the two laws together. On the other hand, if the *SC de provinciis* of 54 (Cic. *Att.* 4.16.5 SB 89) was a precursor to the *lex Pompeia*, it might suggest a separate law on the provinces. The question has no bearing on the analysis presented here. On Cato’s policy, see chapter 8.

² See chapter 6, ‘The *senatus consultum de provinciis* of 53’.

³ Shackleton Bailey (1965–70, 3.246) suggests that Cato ‘may well have been behind’ the *lex Pompeia*. Earlier, Gelzer (1939, col. 982 and 1969, 232) supposed that Cato, as part of his struggle against corruption in provincial administration, might have made a special appeal to provincial governors in connection with Pompey’s law. Neither elaborates further on this possibility. Cf. Russo 1974, 86; Steel 2001, 224 n. 100; Griffin 2008, 92–3.

⁴ Gruen 1969a, 467. Cf. Dragstedt 1969, 82.

his son-in-law Bibulus.⁵ Although the formal motion came from Bibulus, it is clear that Cato played the decisive role.⁶ Appian (*BC* 2.23) and Plutarch's *Life of Caesar* (28.7) do not mention Bibulus at all, and it was Cato to whom Pompey expressed his gratitude (Plut. *Cat. Min.* 48.1–3; *Pomp.* 54.5). Significantly, this was not the first time that Cato had called on Pompey to restore order. During the long interregnum of 53, the senate, on Cato's motion, had asked Pompey to take steps to have elections held.⁷

Some commentators, ancient and modern, interpret the sole consulship as the beginning of an alliance between Pompey and the *optimates*. Dio (40.50.5) says that, in 52, the senate was able to detach Pompey from the populace and make him their own; Velleius (2.47.3) that Pompey's sole consulship appeared to signal his reconciliation with the *optimates*. Cicero indicates something similar when he refers to Pompey's 'divine third consulship', when he took up the role of 'defender of the republic'.⁸ For scholars like Mommsen, Meyer, and Taylor, it was a step in the side-taking leading up to the civil war, though Pompey had not yet broken with Caesar.⁹ Others, such as Gruen, Seager, and Fehrlé, emphasize the emergency character of the arrangement and deny that it signalled any kind of alliance between Pompey and Cato's circle.¹⁰ The sole consulship was simply the lesser of two evils; a temporary means of restoring order while avoiding a dictatorship or a joint consulship of Pompey and Caesar. This interpretation is essentially Plutarch's, derived from a biographical tradition which insisted on Cato's independence even where Cato's actions suggest a different picture.¹¹

Pompey, Cato, and the politics of Milo's trial

For Gruen (1974, 340–1), Milo's trial is key; it signalled the resumption of 'politics as usual' following the temporary expedient of the sole consulship.

⁵ For Pompey's election, see Ramsey 2016.

⁶ Asc. 35–6C; Plut. *Cat. Min.* 47.2; *Pomp.* 54.4; Dio 40.50.4.

⁷ In 53 Cato attacked Hirrus' proposal that Pompey should be made dictator (Plut. *Pomp.* 54.2) and instead called on Pompey 'to take charge of orderly behaviour' (τῆς εὐκοσμίας ἐπιμελεσθῆναι, 54.3). Read with Dio 40.46.1, this suggests that Cato proposed in the senate that Pompey should be called in. Cf. Gelzer 1984, 156; Meyer 1922, 210–11. The episode may indicate that Pompey was already moving closer to the *optimates* in 53; cf. Linderski 1972, 198 for the possibility that Cicero's nomination to the augurate jointly by Pompey and Hortensius occurred around this time.

⁸ Cic. *Att.* 7.1.4 SB 124 (*illo divino tertio consulatu*); 8.3.3 SB 153 (*defensor rei publicae*).

⁹ Mommsen 1889, 3.359; Meyer 1922, 221–2; Taylor 1949, 149; cf. e.g. Gelzer 1968, 151–2; Shackleton Bailey 1971, 97. The 'law of the ten tribunes' shows that a decisive break was still in the future.

¹⁰ Gruen 1974, 153–4, 339–43; Seager 2002, 135; Fehrlé 1983, 210.

¹¹ See introduction, 'Sources and scholarship'. It is the more significant, therefore, that Plutarch does attest collaboration between Cato and Pompey in 52 (see 'Pompey's legislation', below). Cf. Ramsey 2016, who doubts whether either a Pompeian dictatorship or a Caesarian consulship was a real option in 52.

Thus, while Pompey pressed for conviction, Favonius gave evidence for the defence, Brutus published a pamphlet praising Milo's act, and it was taken for granted that Cato, who was one of the jurors, would vote for acquittal. But Gruen disregards crucial evidence of cooperation between Pompey and Cato's circle precisely in the context of Milo's trial.¹² Most obviously, the *quaesitor* elected to hear cases under the *lex Pompeia de vi* was Cato's brother-in-law and political ally L. Domitius Ahenobarbus.¹³ His election, Cicero tells us, was tantamount to personal appointment by Pompey.¹⁴ In addition, Cato's friend and emulator M. Favonius presided over trials *de sodaliciis* (Asc. 54C); it is likely he, too, was specially selected.¹⁵ Cato himself, meanwhile, was one of 360 jurors hand-picked by Pompey to hear cases under his new laws.¹⁶ He sat on the jury at Milo's trial and, in contrast to later trials, Cato seems to have had no complaint to make about the conduct of proceedings; indeed, his very presence on the jury could be read as an endorsement of Pompey's actions.¹⁷

Finally, the *lex Pompeia de vi* under which Milo was tried was passed *ex senatus consulto* and took up the terms of a motion framed by Milo's supporters, which declared the killing on the Appian Way, the burning of the senate house, and the attack on the house of the interrex *contra rem publicam* ('against the state').¹⁸ The effect was to preclude the sort of defence that M. Brutus later used in his pamphlet, namely that Milo had killed Clodius for the good of the republic (*pro re publica*).¹⁹ Instead, the defence was obliged to argue that Milo had acted in self-defence (Stone 1980, 90–5). The limitation was significant, but one self-imposed by Milo's friends.²⁰ The motion came

¹² This argument is made more fully in 'Cato, Pompey's third consulship, and the politics of Milo's trial' (Morrell, forthcoming a); I have summarized its main points here.

¹³ Asc. 38C. Cf. Meyer 1922, 232; Gelzer 1968, 152; Dragstedt 1969, 82; Lewis 2006, 244. On Cato and Domitius, see e.g. Cic. *Att.* 1.16.12 SB 16; Plut. *Cat. Min.* 41–2.

¹⁴ Cic. *Mil.* 22; cf. Asc. 38C.

¹⁵ Perhaps because regular magistrates were yet to be elected for 52; cf. Lintott 1974, 72 n. 116; Lewis 2006, 244. Linderski (1972, 196–7, followed by Ramsey 2016, 314 n. 60) argues that the elections took place before Milo's trial, since in March T. Munatius Plancus Bursa and Q. Pompeius Rufus were able to produce a *triumvir capitalis* (Asc. 37C), and *tresviri* were elected under the presidency of the *praetor urbanus*. Linderski's argument falls, however, if Asconius is taken to mean that the *triumvir* was in office at the time of Clodius' death in January, which is the natural implication of the story.

¹⁶ Asc. 38C; Cic. *Mil.* 21, 105; *Att.* 8.16.2 SB 166; Dio 40.52.1; Vell 2.76.1.

¹⁷ Cato as juror: Cic. *Mil.* 44; Asc. 53C. See below in this section on the trial of Munatius Plancus.

¹⁸ Asc. 36, 44C; cf. Cic. *Mil.* 13, 15.

¹⁹ Asc. 41. According to Asconius, certain persons wanted Cicero to adopt the *pro re publica* line at trial and some scholars number Cato among them (e.g. Lintott 1999a, 60; Stone 1980, 94), but Schol. Bob. 112St mentions only Brutus, and the story may be no more than an inference from the existence of Brutus' version (probably written later, since Brutus was likely in Cilicia at the time of the trial: *vir. ill.* 82.4; Marshall 1985, 174).

²⁰ The *contra rem publicam* declaration was part of their original motion calling for a trial under existing laws, before tribunician interference forced the creation of a special court: Cic. *Mil.* 13–14; Asc. 43–5C.

from Hortensius, with Cicero's support (Cic. *Mil.* 13–14; Asc. 43–5C), and probably Cato's as well. Hortensius and Cato were closely allied at this time by way of their notorious wife-transfer arrangement.²¹ Earlier, they had appeared together at a hearing concerning Milo's slaves,²² and Cato took up the self-defence argument in a *contio* when he declared that '[slaves] who had defended the life of their master were in the highest degree deserving not only of freedom but of every reward'.²³ Moreover, the policy behind the *contra rem publicam* decree was the same as prompted Cato's support for the sole consulship: the repudiation of private violence in favour of magisterial authority and the rule of law.²⁴ At any rate, the only recorded opposition to the *lex Pompeia de vi* came from M. Caelius Rufus, not from Cato and friends (Asc. 36C).

In delivering his verdict, however, Cato made his true feelings known—or so Velleius believed. He reports that Cato 'voted openly for acquittal' (*palam lata absolvit sententia*), and that, if he had only voted earlier, others would have followed his example and 'approved the killing of this citizen more ruinous to the republic and more hostile to good men than any who had ever lived'.²⁵ If this is true, Cato's actions amounted to public criticism of the *lex Pompeia de vi*, which excluded such a defence, and a declaration that any cooperation with Pompey was at an end. But, as we have seen, Cato publicly supported the self-defence line, which was actually inconsistent with the argument that Milo had killed Clodius for the good of the state.²⁶ Furthermore, Asconius (53–4C), who investigated the matter specifically, says 'but no one could ever find out which way Cato voted' (*scire t<amen> ne<mo> umquam potuit utram sententiam <tulisset>*), although Cato's earlier support for Milo led many to believe he favoured acquittal. Asconius' testimony should be preferred. Indeed, I have argued elsewhere that Cato refused to reveal his verdict so as not to undermine the trial process or Pompey's authority.²⁷

Far from being a contest, then, Milo's trial was a demonstration of continuing cooperation between Pompey and Cato's circle. Cato supported Milo, but in a way that was fully consistent with the policy of the senate and the sole

²¹ See e.g. Plut. *Cat. Min.* 25.2–5, 52.3–4; Luc. *BC* 2.326–45.

²² Asc. 38C; cf. Lintott 1974, 71.

²³ Cic. *Mil.* 58: *non libertate solum sed etiam omnibus praemiis dignissimos fuisse qui domini caput defendissent*. The conversation reported to Cato by Favonius—that Clodius had said that Milo would be dead in three days' time (Cic. *Mil.* 26, 44; Asc. 54C)—also supported the self-defence case.

²⁴ Compare e.g. Plut. *Cat. Min.* 47.3 and Cic. *Mil.* 13.

²⁵ Vell. 2.47.5: *proparentque eum civem occisum, quo nemo perniciosior rei publicae neque bonis inimicior vixerat*.

²⁶ It was, however, quite possible for Cato to regard Clodius' death (*mors*) as an advantage to the state, as Asconius (54C) says, without approving the killing (*caedes*). Cf. Cic. *Mil.* 14, where Cicero draws just such a distinction.

²⁷ See Morrell, forthcoming a.

consul. It is worth comparing Cicero's attitude. Even Cicero, Milo's most committed supporter, accepted the limitations of the *contra rem publicam* declaration (Asc. 37–8C, 41–2C). It was only later, in the published speech, that he argued Milo had acted for the good of the state. Stone (1980, 107–11) makes a strong case that the revised *Pro Milone* was prompted by the trial of T. Munatius Plancus Bursa in early 51 and Pompey's departure from the strict justice he had insisted on for Milo.²⁸ Plancus had been involved in the burning of the curia (Asc. 33C), one of the three incidents declared *contra rem publicam*, yet Pompey intervened for Plancus, even submitting a written *laudatio* in violation of his own law.²⁹ When Plancus was convicted nonetheless, Cicero considered the verdict a triumph both for himself and for Milo and was emboldened to heroize Milo, at Pompey's expense.³⁰

I suggest that Plancus' trial was a turning point for Cato as well. Cato responded to Pompey's transgression by reciting the law (Val. Max. 6.2.5) and, according to Plutarch, by blocking his ears, so as not to hear the illegal *laudatio*.³¹ His actions can be understood as a public protest against Pompey, who had reneged on the agreement of 52. Cato was promptly rejected as juror, but Plancus was condemned and Pompey remembered by Tacitus as 'the author and overthrower of his own laws'.³² In this context, Cato might well have been moved to proclaim that Milo had acted *pro re publica*.³³ However, the incident should not be regarded as typical of relations between Pompey and Cato in this period—nor, indeed, as a fatal breach, since Cato would be one of Pompey's closest allies in the civil war.³⁴

Evidence from two earlier trials suggests that Pompey was responsive to Cato's criticism, at least while his consulship lasted. Around July or August 52, Pompey earned Cato's rebuke when he intervened on behalf of his new father-in-law, Metellus Scipio.³⁵ Scipio had been accused of *ambitus*; Pompey managed to have the charges dropped, probably by taking Scipio as his colleague in

²⁸ Cf. Berry 1993; Riggsby 1999, 110; Alexander 2002, 22; Lintott 2008, 250. *Contra*: Fotheringham 2013, 10–12.

²⁹ Val. Max. 6.2.5; Plut. *Cat. Min.* 48.4; Dio 40.55.2.

³⁰ Cic. *Fam.* 7.2.2 SB 52 with Shackleton Bailey 1977, 1.351; Stone 1980, 108–9.

³¹ Plut. *Cat. Min.* 48.4; cf. Dio 40.55.2.

³² Tac. *ann.* 3.28 (*suorumque legum auctor idem ac subversor*), probably referring to this incident. Cf. Stone 1980, 110.

³³ See Morrell (forthcoming a) for the hypothesis that Velleius might have confused such a comment with Cato's vote at trial.

³⁴ See Welch 2012, 58–9, 68–9.

³⁵ Plut. *Pomp.* 55.4; *Cat. Min.* 48.4. The marriage is another sign that Pompey was aligning himself with the *optimates* in 52 (though Scipio was not a friend of Cato's: Plut. *Cat. Min.* 7.1–3). Previously Pompey had refused a renewed marriage alliance with Caesar (Suet. *Iul.* 27.1). Scipio was prosecuted sometime between Milo's trial and August, when he became Pompey's colleague: see Dio 40.51.2–3; Plut. *Pomp.* 55.7; Linderski 1972, 195 n. 57; *TLRR* no. 321.

the consulship.³⁶ Cato censured Pompey's actions, but the 'wake-up call' Plutarch describes is of a very different nature to Cato's demonstration at Plancus' trial, and need not have signalled the end of cooperation.³⁷ Indeed, Pompey seems to have heeded Cato's words. It was probably not long afterwards that P. Plautius Hypsaeus also faced trial for *ambitus*.³⁸ Hypsaeus, once Pompey's quaestor, was an important political adherent and Pompey had supported him vigorously in his campaign for the consulship.³⁹ Now, however, when Hypsaeus prostrated himself before Pompey, he found himself dismissed with the remark that he was achieving nothing but spoiling Pompey's dinner.⁴⁰ Pompey's behaviour is most plausibly explained as an attempt to ameliorate criticism over Scipio⁴¹—a response, perhaps, to Cato's 'constructive criticism'. In any case, it seems Pompey valued his task as consul and those who had given it to him highly enough to sacrifice an old friend.⁴²

Cato's consular campaign

Another factor in the political matrix of 52 was Cato's (unsuccessful) campaign for the consulship. The notion we find in the sources that Cato was indifferent to the office or to his failure at the polls must be rejected.⁴³ Such sentiments look like face-saving or products of the 'Stoic martyr' tradition. In fact, Cato was laying the groundwork for his consular campaign well in advance. In 53, for instance, he took advantage of one of Clodius' harangues to remind the people of his achievements in Cyprus (Plut. *Cat. Min.* 45.2) and his takeover of Favonius' aedilician games in 53 or 52 (46.2–5) was probably intended to support his own bid for the consulship. Cato does seem to have contributed to his own defeat by putting principle before popularity: he persuaded the senate to pass a decree requiring candidates to canvass in person, which he rigorously obeyed, and Cicero, at least, thought he ought

³⁶ Dio 40.51.2–3. This is the most plausible of the explanations offered by the sources; cf. Gruen 1974, 345.

³⁷ Literally, Plutarch says that '[Cato] censured Pompey sternly and awakened him' (*ἐπετίμα σφοδρῶς καὶ διήγειρεν*, *Cat. Min.* 48.4). Plut. *Pomp.* 55.4–5 states that the ill repute Pompey incurred on Scipio's account was increased by his intervention for Plancus. Cf. n. 7, above, for another instance of Pompey responding to correction from Cato.

³⁸ Plut. *Pomp.* 55.6 places the incident a few days after Plancus' trial, but Plancus was almost certainly tried in early 51 (see Alexander *TLRR* no. 327), whereas 52 was the natural time to prosecute Hypsaeus, around the same time as his fellow candidate Scipio.

³⁹ Asc. 35C; cf. e.g. Cic. *fam.* 1.1.3 SB 12.

⁴⁰ Val. Max. 9.5.3; Plut. *Pomp.* 55.6.

⁴¹ Cf. Gruen 1974, 346.

⁴² Why Pompey assisted Plancus but not Hypsaeus we can only guess. Gruen (1974, 347) and Stone (1980, 106) suggest Pompey could not afford to lose any more friends; the fact that he was no longer consul is surely also relevant.

⁴³ Dio 40.58.1; Plut. *Cat. Min.* 50.1; Sen. *ep.* 104.33.

to have done more to win popular favour.⁴⁴ As far as Cato was concerned, it was a campaign not only for the consulship but for clean elections.⁴⁵ His openly anti-Caesarian platform will also have lost him votes.⁴⁶ But Cato sought the consulship with the intention of winning it. His comment to Cicero, that he would neither change his ways nor again suffer the same fate (Plut. *Cat. Min.* 50.3), and his swipe at his friend and competitor Ser. Sulpicius Rufus show that the defeat stung.⁴⁷

If Cato had hoped for Pompey's blessing, or at least neutrality, that might have made him more willing to cooperate in 52.⁴⁸ Pompey, still tied to Caesar (publicly, at least) could not have supported Cato, but neither should we assume that he opposed Cato's candidacy.⁴⁹ It is significant that Cato had no fault to find with Pompey's conduct of the elections. He acknowledged that there had been no malpractice and explicitly contrasted his (legitimate) failure to win the consulship with his corrupt exclusion from the praetorship of 55.⁵⁰ Thus Cato's public response to his *repulsa* was another endorsement of Pompey's consulship.

Pompey's legislation

The year 52 was politically untidy. Pompey was cooperating with Cato's circle but had not broken with Caesar. Thus, soon after Pompey's election, the 'law of the ten tribunes' granting Caesar permission to stand for the consulship *in absentia* was passed at Pompey's urging and with Cato's vehement

⁴⁴ Plut. *Cat. Min.* 49.3–4, 50.2. Cf. Broughton 1991, 15.

⁴⁵ It was successful, in that Cato acknowledged he had lost in an honest election (Plut. *Cat. Min.* 50.3; cf. Dio 40.58.3). Compare Plut. *Cat. Min.* 8.2 on Cato's consciously exemplary campaign for the military tribunate.

⁴⁶ See Plut. *Cat. Min.* 49.1; Dio 40.58.2. Caes. *BC* 1.4.1 seems to claim credit for Cato's defeat.

⁴⁷ Plut. *Cat. Min.* 49.2: 'τί γάρ... θαυμαστόν, εἰ ὃ τις νομίζει τῶν ἀγαθῶν μέγιστον, ἐτέρῳ μὴ παρήσει;' ('"What wonder is it if a man will not yield to another what he regards as the greatest of all good things?"') Sulpicius was thought to have acted in an inappropriate and ungrateful manner by campaigning against a friend. We find no such criticism of the other successful candidate, M. Claudius Marcellus, who was a friend and coeval of Cato (Plut. *Cat. Min.* 18.3) and united with him in hostility to Caesar. They are better seen as running-mates.

⁴⁸ Cf. *comm. pet.* 5 on the importance of having Pompey 'as a friend... or certainly not an opponent' in one's canvass (*aut amicum... aut certe non adversarium*).

⁴⁹ I suspect Pompey took a 'hands-off' approach to the elections for 51, though he may have supported Sulpicius as a neutral or 'compromise' candidate, or perhaps as a reward for his likely role in the creation of Pompey's sole consulship (see Bauman 1985, 28–9; Ramsey 2016, 316–18). Previously Pompey had presided over Cato's election to the praetorship and Domitius Ahenobarbus' election to the consulship for 54 (Cic. *Att.* 4.13.1–2 SB 87: the elections for 54 apparently had not been held before Pompey's colleague Crassus departed for Syria).

⁵⁰ Plut. *Cat. Min.* 50.3; cf. Dio 40.58.3. It was Pompey and Crassus who had kept Cato out of the praetorship in 55 (Plut. *Cat. Min.* 42; Dio 39.32.1–2).

opposition.⁵¹ This was a more acute point of difference than Milo's trial, yet it was passed in a period of demonstrable collaboration between Pompey and Cato's circle. That collaboration did not end with Milo's trial. Rather, Cato's role in the trial suggests continuing commitment to the sole consulship he had been instrumental in establishing. It is not until 51 that we find Cato openly challenging Pompey, by which time order had been restored and Pompey's consulship had come to an end. Meanwhile, Pompey showed himself willing to sacrifice old friendships to preserve the new relationship. It was in the intervening period that Pompey's consular legislation was passed, thus in the period of closest cooperation between Pompey and Cato. This timing has implications for our understanding of the *lex Pompeia de provinciis*.⁵²

After Pompey became sole consul, he invited Cato to visit him at home.⁵³ According to Plutarch (*Cat. Min.* 48.1), Pompey welcomed Cato with embraces and hand-clasps, expressed his gratitude, and 'entreated him to be his counsellor and associate in government' (παρεκάλει σύμβουλον αὐτῷ καὶ πάρεδρον εἶναι τῆς ἀρχῆς). Cato replied that he had not acted to win Pompey's favour but in the interests of the state; 'in private, therefore, when invited, he would be an adviser, but in public, even if not invited, he would at any rate say what seemed right'.⁵⁴ And so Cato did, says Plutarch, advising Pompey against retroactive penalties in his *ambitus* law and urging him not to show favour to friends and relations who were on trial (*Cat. Min.* 48.3–4).

We should accept Plutarch's testimony that Cato acted in this period as Pompey's counsellor in government. Plutarch's account most likely derives from Cato's intimate friend Munatius Rufus.⁵⁵ That the story runs counter to the *Tendenz* of the life tends to strengthen its credibility: Cato (or his biographer) insists on Cato's independence *because* he had shown himself willing to cooperate with Pompey. That cooperation is reflected in Pompey's laws of 52. We have already seen that the *lex Pompeia de vi* took up the terms of a motion by Cato's friends, and there is reason to suspect Cato also had a hand in the new procedural rules Pompey introduced. Under the laws *de vi* and *de ambitu*, and perhaps in all courts, speeches were limited to two hours for the

⁵¹ See esp. Cic. *Att.* 7.1.4 SB 124; Caes. *BC* 1.32. On the date, see Stone 1980, 104–6; Ramsey 2016, 311.

⁵² The law must have been passed between Milo's trial in April and August, when Pompey took Metellus Scipio as his colleague. Asc. 36C mentions only the laws *de vi* and *de ambitu*, and it seems unlikely that other legislation was passed before Milo's trial; on the other hand, it is clear from Dio 40.56.1 that the *lex de provinciis* was passed while Pompey was sole consul (though he is mistaken in placing it before the law of the ten tribunes: Lintott 1997, 2508).

⁵³ Plut. *Cat. Min.* 48.1–2; cf. *Pomp.* 54.5–6.

⁵⁴ Plut. *Cat. Min.* 48.2: ἰδίᾳ μὲν οὖν αὐτῷ παρακαλοῦντι σύμβουλος ἔσεσθαι, δημοσίᾳ δὲ κἂν μὴ παρακαλῆται πάντως ἔρεῖν τὸ φαινόμενον. Cf. *Pomp.* 54.6.

⁵⁵ Cf. Geiger 1979, 53; 1971, 322. Geiger suggests that Cato's friend Munatius may have been involved as go-between between Cato and Pompey.

prosecution and three hours for the defence.⁵⁶ Cicero has 'Cato' refer to this change in *De Finibus* where he says, 'When I see you, under this new law, replying to the prosecutor on the same day and concluding your speech in three hours, do you think I am going to defer this case?'⁵⁷ Since the law is not germane to the philosophical subject matter of the dialogue, the fact that Cicero chose to highlight it in this way raises the possibility that Cato had something to do with the change.⁵⁸ That would certainly tally with Cato's efforts two years earlier to expedite the trials of Scaurus and, perhaps, Gabinius.⁵⁹ In addition, Cato's demonstration at Plancus' trial takes on new significance if Cato himself had pushed for the bar on *laudationes*.

In the case of the *lex de iure magistratuum*, there is strong evidence for Cato's involvement. The *senatus consultum* Cato sponsored in 52, requiring candidates to canvass in person and prohibiting the use of agents (Plut. *Cat. Min.* 49.3), bears close affinity to the known provisions of the *lex de iure magistratuum*, which restated an earlier bar on candidature *in absentia* (Suet. *Iul.* 28.3; Dio 40.56.1).⁶⁰ It is conceivable that Cato's proposal was a preliminary step in the passage of Pompey's law. This is the more likely in view of the law's anti-Caesarian implications: the *lex de iure magistratuum* seemed to nullify the law of the ten tribunes by restating the rule from which Caesar had just been exempted. According to Suetonius and Dio, it was only after his law was passed that Pompey attempted to correct this 'oversight'.⁶¹ Exactly what Pompey did is not clear, but the consul M. Marcellus could at least argue in 51 that Pompey's law had annulled Caesar's privilege.⁶² Modern scholars, however, have tended to dismiss Pompey's supposed forgetfulness, arguing that Caesar's exception was part of the rationale for the law, or else that Pompey's actions amounted to a rather unsubtle piece of duplicity.⁶³ But a further

⁵⁶ Asc. 36, 39C; Dio 40.52.2. Dio 40.52.3 states that Pompey's procedural changes applied to all courts (cf. Gruen 1974, 237–8).

⁵⁷ *Cic. fin.* 4.1: *cum ego te hac nova lege videam eodem die accusatori respondere et tribus horis perorare, in hac me causa tempus dilaturum putas?* The 'case' in question is a discussion of Stoic philosophy.

⁵⁸ The passage serves to establish a dramatic date of 52, but Cicero could have employed any number of other, more obvious, pointers.

⁵⁹ See Morrell 2014 and chapter 5, 'The date of Rabirius' trial'.

⁶⁰ Taylor (1949, 225 n. 35) suggests that Cato may have proposed or inspired the original rule (introduced between 63 and 60: Linderski 1966). There is no evidence, but it was Cato who opposed Caesar's requests for exemption in 60 and in 52.

⁶¹ Suet. *Iul.* 28.2–3; Dio 40.56. Suetonius states that Pompey corrected his oversight only after the law had been deposited in the treasury, which of course would be legally invalid. Dio suggests that Pompey amended the law (*προσγράψω*). Cicero's comment (*Att.* 8.3.3 SB 153) that '[Pompey] himself confirmed [Caesar's exemption] by some sort of law of his own' (*ipse sanxit lege quadam sua*) might imply that the validity of Pompey's action was questionable (cf. Shackleton Bailey 1965–70, 4.329; Gruen 1974, 457 n. 30).

⁶² Suet. *Iul.* 28.2–3 (where *nec* is obviously an error).

⁶³ See e.g. Gruen 1974, 456–7 and Steel 2013a, 187 for the former view; Syme 1939a, 40 and Seager 2002, 138–9 for the latter.

possibility, which does better justice both to the evidence and to Pompey's intellect, is that Pompey took up a senatorial initiative and that it was the terms of a *senatus consultum* that he modified, perhaps after a bill had been promulgated.⁶⁴

As for the *lex de ambitu*, Pompey ignored Cato's advice against retroactive penalties and passed a law backdated to 70.⁶⁵ Plutarch, however, does not mention that fact, and instead presents the law as the product of consultation between the two men (*Cat. Min.* 48.3). At the same time, the advice Cato is said to have given to Pompey—'to overlook the past and turn his attention to the future'⁶⁶—might well describe another of Pompey's laws: the *lex Pompeia de provinciis*, a law which sought not to punish corruption but to prevent it. It was, moreover, a provincial reform, and as such addressed an issue of longstanding interest to both Pompey and Cato. I suggested in chapter 6 that the *senatus consultum* of 53 which Pompey's law ratified took its impetus from Cato. Certainly Cato's friends were actively involved in administering the new law,⁶⁷ and I will argue in chapter 8 that it served as vehicle for a policy of ethical governance closely associated with Cato himself. The cooperative relationship between Pompey and Cato during the first half of 52 offers a plausible context in which a reform arguably as much Cato's as Pompey's could have become law.

Indeed, it seems possible that Cato had something of the sort in mind when he supported the sole consulship. Its 'official rhetoric' shows that the senate wanted more from Pompey than emergency measures to restore order and control corruption. The whole state, the *tota res publica*, was entrusted to his care⁶⁸—including, I suggest, the provinces. We have seen already that both Pompey and Cato regarded *socii et res publica* as an indivisible unit.⁶⁹ Cicero's *De Legibus*, written around this time, defines *res publica* to include provincial

⁶⁴ Cf. Lintott 2008, 435.

⁶⁵ App. BC 2.23. Cf. Gruen 1974, 236.

⁶⁶ Plut. *Cat. Min.* 48.3: ἀμελεῖν ἐκέλευσε τῶν γεγονότων καὶ προσέχειν τοῖς μέλλουσιν.

⁶⁷ See 'The appointments for 51', below.

⁶⁸ Cic. *Mil.* 65, 66, 68. §78 offers a neat summation of Pompey's objectives: *In spem maximam et, quem ad modum confido, verissimam sumus adducti, hunc ipsum annum, hoc summo viro consule, compressa hominum licentia, cupiditatibus confractis, legibus et iudicii constitutis, salutarem civitati fore.* ('We have been brought to the greatest and, as I trust, the most certain hope that this very year, with this most exalted gentleman as consul, after the licence of men has been checked, passions broken, and the laws and the courts set in order, will be healthful for the community.') Cf. Tac. *ann.* 3.28, who says Pompey was elected to his third consulship *corrigendis moribus*. On the 'official rhetoric' of the sole consulship, see Stone 1980, 97–8. Plutarch (*Cat. Min.* 47.2) indicates that Cato played a role in devising this rhetoric when he has Cato propose the sole consulship as a remedy (ἰαμα) for the state.

⁶⁹ Cato *fam.* 15.5 SB 111 (see chapter 3, 'Cato in his own words'). Pompey went so far as to include the provinces within the *patria* (Plin. *NH* 7.99, discussed in chapter 2, 'Pompey's patria').

affairs.⁷⁰ The destabilization of the east after Carrhae was a vivid reminder, if any were needed, that the welfare of Rome and of the provinces were vitally linked. It was against this background, and through the vehicle of the *lex Pompeia de provinciis*, that principles long promoted by Pompey and Cato independently became public policy in 52.

THE *LEX POMPEIA DE PROVINCIIIS*

Dio records that Pompey, as sole consul, ‘confirmed the decree, passed a little before, that those having held office in the city should not be allotted to an external command before five years had passed’.⁷¹ As we have seen, Dio describes the decree as an anti-*ambitus* measure (40.46.2), but it also transformed the way in which provincial commands were created and conceptualized.

The various interpretations of the law proposed in modern scholarship are reviewed by Marshall and Steel.⁷² We may dispense with the idea that the *lex Pompeia* was devised as a weapon against Caesar, even though it was used in 49 to place the provinces in the hands of his enemies. As Gruen points out, the *lex Pompeia*, unlike its predecessor the *lex Sempronia*, allowed for tribunician veto on the assignment of the consular provinces; Caesar was thus shielded against any hostile attempt to supersede him under the new law.⁷³ Indeed, Caesar himself praised the acts of Pompey’s third consulship (*BG* 7.6). It was only later, after the assignment of commands for 49, that he attacked the

⁷⁰ Cic. *leg.* 3.41: *Quodque addit ‘causas populi teneto’, est senatori necessarium nosse rem publicam, idque late patet: quid habeat militum, quid valeat aerario, quos socios res publica habeat, quos amicos, quos stipendiarios, qua quisque sit lege condicione foedere.* (‘As to the addition “let him have a grasp of public affairs”, it is necessary for a senator to be acquainted with the *res publica*, and this has broad application: military resources, the state of the treasury, what allies the *res publica* has, what friends, what tributaries; by what law, agreement, treaty each is governed.’) On the date, see Dyck 2004, 5–7.

⁷¹ Dio 40.56.1: *τό τε δόγμα τὸ μικρόν ἔμπροσθε γενόμενον, ὥστε τοὺς ἄρξαντας ἐν τῇ πόλει μὴ πρότερον ἐς τὰς ἑξω ἡγεμονίας, πρὶν πέντε ἔτη παρελθεῖν, κληροῦσθαι, ἐπεκύρωσεν.* A *lex* was required because the new system of provincial appointments superseded the *lex Sempronia*: see e.g. Willems 1878–83, 2.588; Gruen 1974, 457. Cf. Ferrary 2001, 105–7, refuting the arguments of Giovannini (1983, 114–19) and Girardet (1987, 297–8) that the *lex Sempronia* remained in force. It is worth noting, too, that the opening formula of the SC of 54, *quicumque posthac*... (Cic. *Att.* 4.16.5 SB 89), appears to anticipate a *lex*.

⁷² Marshall 1972, 891–2; Steel 2012, 83 n. 1, 87.

⁷³ Gruen 1974, 457–60. On the *lex Sempronia*, see e.g. Drogula 2015, 298, with further references. Gagliardi (2011, 96–104) suggests that Pompey introduced the change into his *lex* as a concession to Caesar and that it did not form part of the original SC, which may have tacitly assumed that the bar on veto would continue. This is plausible since, as later events demonstrated, tribunes had the potential to disrupt the operation of the law entirely; there is also a parallel in the law of the ten tribunes and the *lex de iure magistratum* (see ‘Pompey’s legislation’, above). It should be emphasized, however, that the events of 51–50 were exceptional, and that the *lex Pompeia* had operated smoothly earlier in 51.

reform (BC 1.6.5, 1.85.9). Rather, as Gruen argues (1974, 458–9), the *lex Pompeia* had an ‘intelligent and worthy purpose’, aimed at deterring both electoral corruption and extortion in the provinces.

The function of the law as combined anti-*ambitus*/anti-extortion measure is worth reiterating in light of Steel’s recent argument that the law was directed primarily towards ensuring an adequate supply of promagistrates and, to some extent, curbing electoral malpractice, rather than improving ‘the quality of imperial government’.⁷⁴ Administrative efficiency was likely one purpose of the law, but its broader implications should not be overlooked. As the Romans were aware, *ambitus* could not be clearly distinguished from provincial extortion. The two had to be tackled together, and that was the immediate aim of the *lex Pompeia*.

When P. Valerius Triarius prosecuted M. Aemilius Scaurus for extortion in 54, he articulated with great clarity the ‘vicious circle’ of extortion and electoral corruption that plagued Rome and the provinces. The prosecution was afraid, he said, ‘that Scaurus would buy the consulship with the money he had stolen from the allies, enter office before the case could be decided, as his father had done, and once again plunder other provinces before rendering an account of his earlier administration’.⁷⁵ That is, a man like Scaurus could use the provincial command following his praetorship to fund a consular campaign but escape prosecution either for *ambitus* or extortion by proceeding immediately to another command. Alternatively, he might borrow vast sums to cover his political expenses, with the intent of recouping the money—and more—at the expense of a province.⁷⁶ What made this cycle of corruption possible was the continuous *imperium* a praetor or consul enjoyed from the moment he entered office till the moment he laid down a provincial command. *Imperium* gave immunity from prosecution,⁷⁷ which meant a successful candidate could not be prosecuted for several years, during which time he could acquire the funds necessary to win another election and/or bribe a jury.⁷⁸

⁷⁴ Steel 2012, 92–3. This modifies her earlier view (2001, 221–4).

⁷⁵ Asc. 19C: *timere ergo se ne Scaurus ea pecunia quam a sociis abstulisset emeret consulatum et, sicut pater eius fecisset, ante quam de eo iudicari posset, magistratum iniret ac rursus ante alias provincias spoliaret quam rationem prioris administrationis redderet*. The connection between extortion and electoral bribery was drawn at least as early as Cato the Censor: Cato *De Sumptu* Suo ap. Front. *ep. ad Ant.* 1.2.9; Yakobson 1999, 146.

⁷⁶ For example, when Caesar left for Spain at the end of his praetorship, he is supposed to have needed HS 25 million just to clear his debts (App. *BC* 2.8). Plutarch says Caesar was rich when he left the province (Plut. *Caes.* 12.4), though what he brought home was not sufficient to fund the sort of consular campaign that Lucceius could afford (hence the electoral compact: Suet. *Iul.* 19).

⁷⁷ See e.g. Weinrib 1968, with references.

⁷⁸ e.g. Verres allegedly said he would devote the proceeds of his first year in Sicily to his own coffers, the second to his friends’, and the third to his judges (Cic. *Verr.* 1.40); when charged with

The *lex Pompeia* addressed both sides of the problem by requiring an interval (perhaps five years) between civic office and provincial command.⁷⁹ This worked in two ways to break the cycle of corruption. First, it discouraged lavish electoral spending by imposing a lengthy delay before a candidate would have the opportunity to recoup his 'investment' in the provinces.⁸⁰ Changes to the process by which provinces were assigned added further uncertainty as to whether even a successful candidate would receive a province at all.⁸¹ Even if these factors did not in themselves deter excessive spending, the cost of borrowing may well have done so. Interest rates were high in the late 50s,⁸² and a candidate who had to wait years for the chance of a province (years in which he was open to prosecution) will have posed a much greater credit risk than in the past and therefore attracted higher interest charges. In this way, the *lex Pompeia* exploited economic forces to deter corruption.

Secondly, the *lex Pompeia* removed the protection from prosecution that a provincial command traditionally afforded an outgoing praetor or consul. He no longer enjoyed continuous *imperium*, but returned to private status at the end of the year, which meant he could be prosecuted for any misconduct while in office or as a candidate.⁸³ The law thus closed a significant loophole which had hampered the enforcement of other laws, and complemented the bar on candidature *in absentia* reaffirmed by Pompey in 52 (Suet. *Iul.* 28.3; Dio 40.56.1). The rule obliged a returning governor to give up his *imperium* in order to seek the consulship,⁸⁴ meaning he would remain a *privatus* for at least half a year, in which time he would be open to prosecution for any misconduct in his province.⁸⁵ The combined effect of these two rules was that men could not proceed from one office to another with continuous *imperium*; instead the laws enforced periods of private status between magistracy and promagistracy, and vice versa, during which former officials were open to prosecution.⁸⁶ The

extortion in 51, C. Claudius Pulcher attempted to rig the prosecution by means of HS 3 million appropriated from his province (Cael. *fam.* 8.8.2 SB 84).

⁷⁹ That there was an interval is clear; its length will be considered presently.

⁸⁰ Cf. e.g. Gruen 1974, 459; Steel 2001, 224.

⁸¹ See 'The senate's control over provincial appointments' and 'Sortition', below.

⁸² As shown by the passage in 51 of a *senatus consultum* limiting the legal interest rate: Cic. *Att.* 5.21.13 SB 114; Andreau 1999, 97. In 54 the interest rate had doubled as a consequence of electoral bribery (Cic. *Att.* 4.15.7 SB 90).

⁸³ Cf. Brennan 2000, 402.

⁸⁴ That is what Caesar had been forced to do in 60 (e.g. Suet. *Iul.* 18.1–2; Plut. *Cat. Min.* 31.2–4; *Caes.* 13.1–2) and hoped to avoid in 49 by aid of the law of the ten tribunes (references in *MRR* 2.236). Previously it had been possible to proceed directly from military command to consulship, since the consular elections were held outside the *pomerium*: see Linderski 1966, 526.

⁸⁵ The elections were normally held in July, though that still might not be enough time to secure a conviction for extortion, as Triarius feared in Scaurus' case (Asc. 19C).

⁸⁶ Cf. Brennan 2000, 402. The principle can perhaps be traced to Cato (see chapter 6, 'The *senatus consultum de provinciis* of 53'). Possibly both rules formed part of the *lex Pompeia de iure magistratuum* (see above, n. 1).

threat was significant, especially in light of Pompey's judicial reforms, which had revived the courts; Caesar's claim that he would have been condemned if he ever became a *privatus* deserves to be taken seriously.⁸⁷ The merit of this separation of commands is reflected in its implementation as a fundamental principle of government under the principate: not only did Augustus adopt the mandatory interval between magistracy and promagistracy as the basis of appointments to the public provinces (Suet. *Aug.* 36; Dio 53.14.2), but another rule provided that no one should hold any office immediately after another, whether in Rome or in the provinces, to ensure opportunities for prosecution.⁸⁸

In fact, the *lex Pompeia* meant a still more dramatic change to patterns of office-holding. The *lex annalis* required a minimum two-year interval between praetorship and consulship.⁸⁹ Prior to the *lex Pompeia*, it was common for an ex-praetor to proceed directly to a province and return just in time to seek the consulship.⁹⁰ But the five-year rule meant that an ex-praetor would become eligible for the consulship before he was eligible for a province.⁹¹ This will have meant that most candidates (and certainly those aspiring to election *suo anno*) would stand for the consulship without having held a praetorian province.⁹² The alternative was to accept a lengthy delay in one's *cursus* (and, probably, some suspicion as to one's motives). Moreover, if the same interval applied, successful candidates would potentially have to wait another five years for a

⁸⁷ Suet. *Iul.* 30. The reference to Milo's trial (30.3) might suggest that Caesar drew a particular connection between the threat of prosecution and Pompey's laws of 52. I concur with Stanton (2003) and Ramsey (2005, 21; 2009, 48) that fear of prosecution must have been a factor in Caesar's decision to cross the Rubicon, just as it had been in his anxiety to secure the *ratio absentis* (contra: Shackleton Bailey 1965–70, 1.39; Ehrhardt 1995; Morstein-Marx 2007).

⁸⁸ Dio 60.25.5; cf. Plin. *pan.* 92. According to Dio, it was an old rule revived by Claudius after a period of disuse. Paul *sent.* Leiden fr. §5 ascribes a similar provision to the *lex Julia de pecuniis repetundis*; while post-republican in form, it could reflect an (Augustan?) attempt to reproduce the separation of offices required by Pompey's legislation of 52. Cf. Levy 1956, 67–9. On the relationship between the *lex Pompeia de provinciis* and Augustus' 'revival' measure, see e.g. Hurler 2006, 476–83; Ferrary 2009a, 96–7. For the division between public (not 'senatorial') and imperial provinces, see Strab. 17.3.25 with Millar 2002, ch. 13.

⁸⁹ See Astin 1957, esp. 590–602, and 1958, 50, 63.

⁹⁰ For instance, Scaurus (pr. 56) returned to Rome on 29 June 54 to seek the consulship for 53 (Asc. 18C).

⁹¹ We cannot be certain that the five-year interval attested by Dio is correct (see 'The interval under the law'), but even a shorter interval will have rendered unfeasible the usual progression from praetorship to provincial command to consulship.

⁹² Cf. Steel (2012, 89–90), who draws the same conclusion from the combined effect of the *lex Pompeia* and 'the prestige of office tenure *suo anno*'. Presumably those who reached the consulship within five years would not hold a praetorian province at all; the concept of a consular governing *pro praetore* is hardly acceptable, especially as the *lex Pompeia* had regularized grades of *imperium* (see below in this section). Those who did not reach the consulship in time might find themselves despatched to provinces whether they liked it or not (see Steel 2012, 91).

consular command. This would have made it much more difficult to finance a political career by means of extortion.

All of this represents a more insightful approach to the problem of corruption than the criminal statutes, which relied on harsh penalties as a deterrent—without much success. However, the *lex Pompeia* was not simply an anti-*ambitus* measure with incidental benefits for the provinces, nor was the five-year interval its only provision.⁹³ Other aspects of the law expressly concerned provincial administration and suggest a detailed and complex piece of legislation. For instance, under the *lex Pompeia*, a governor's *imperium* depended for the first time on his rank, so that *praetorii* received praetorian *imperium* while consular *imperium* was reserved for ex-consuls.⁹⁴ Further, a governor was obliged to leave his province at the end of his term unless explicitly prorogued, where previously he was entitled to remain until his successor arrived.⁹⁵ These changes served to redefine provincial command as something like a magistracy in its own right, with a fixed hierarchy, limited duration, and mandatory interval between offices, rather than an 'appendage' (or perquisite) to praetorship or consulship.⁹⁶ It is also possible that the law obliged appointees to accept command unless they had some legitimate excuse, which would have addressed the problem in past years of magistrates refusing provinces.⁹⁷ In addition, the law allowed the senate to respond to conditions in the provinces more promptly and flexibly than under the *lex Sempronia* by assigning the consular provinces closer to the time when they would be taken up and in conjunction with the praetorian provinces, although the senate's decision was now subject to tribunician veto.⁹⁸

The following discussion will explore four aspects of the law with direct implications for the quality of provincial governance—the interval under the law, the senate's control over appointments, the duration of commands, and the process of sortition—before considering how these elements played out in the appointment of governors for 51–50.

⁹³ See Willems 1878–83, 2.588–98.

⁹⁴ The *senatus auctoritas* of September 51 shows that all *praetorii* appointed under the *lex Pompeia* governed *pro praetore* (Cael. *fam.* 8.8.8 SB 84; Brennan 2000, 403), and Cicero addresses Q. Minucius Thermus and P. Silius as *propraetors* (e.g. *fam.* 2.18 SB 115, 13.55 SB 129, 13.61 SB 135).

⁹⁵ See 'The duration of commands', below.

⁹⁶ Cf. Gruen 1974, 459; Steel 2001, 221.

⁹⁷ See Steel 2001, 91; Brennan 2004, 48; Cic. *Lig.* 21.

⁹⁸ Under the *lex Sempronia* the senate normally named the consular provinces prior to the election of the consuls who would receive them, with no veto possible on this decision (see e.g. Cic. *prov. cons.* 3, 17; Drogula 2015, 298). As Rafferty (2016, 254–6) observes, Cael. *fam.* 8.5.2–3 SB 83 and 8.8.5–6 SB 84 show that the consul M. Marcellus originally intended to dispose of the consular and praetorian provinces for 50 at a single senate meeting.

The interval under the law

That the new system required an interval between magistracy and promagistracy is clear from Caesar's complaint that the laws had been changed so that magistrates no longer proceeded to provinces *ex praetura et consulatu*,⁹⁹ and from the provisions of the *senatus auctoritas* of 51 calling up additional *praetorii* in order of seniority.¹⁰⁰ The length of the interval is less clear, as is whether it was observed in 51 and 49. Dio states three times that the interval was five years,¹⁰¹ and we have no reason to doubt his testimony.¹⁰² However, it seems possible that the five years were counted from the beginning of one office to the next, so as to produce a four-year gap, rather than the full five years that Dio's words suggest.¹⁰³ Confusion between inclusive and exclusive reckoning is easy to credit. Moreover, four years is the interval we observe in two of the five appointments under the *lex Pompeia* for which the date of praetorship or consulship is known, and there is no hint that either appointment was illegal,¹⁰⁴ though that could be explained by the interim arrangements that must have applied until the magistrates of 52 became eligible for provincial service.¹⁰⁵

In any case, none of the appointees for 51 are known to contravene the five-year rule.¹⁰⁶ Cicero (cos. 63) and Bibulus (cos. 59) conform easily; unfortunately the year of office is not attested for any of the *praetorii*, but two, at least, seem to have been relatively senior men. Q. Minucius Thermus, the governor of Asia, is usually identified with the 'Thermus' tribune in 62 and the Q. Minucius Q.f. Thermus who was a senator by 73; thus a praetorship c.60–58 seems likely.¹⁰⁷ Cn. Tremellius Scrofa, governor of a minor eastern province, was quaestor under Crassus in 71 and military tribune elect for

⁹⁹ Caes. *BC* 1.85.9 (quoted in n. 147). Cf. 1.6.5: *provinciae privatis decernuntur* ('provinces are decreed to private citizens').

¹⁰⁰ Cael. *fam.* 8.8.8 SB 84, discussed below ('The senate's control over provincial appointments'). Cf. Brennan (2000, 402 n. 110) on the consuls.

¹⁰¹ Dio 40.30.1, 46.2, 56.1; cf. 53.14.2 on the Augustan 'revival' of the law.

¹⁰² Gelzer (1968, 152 n. 6) suggests that the five-year rule is an inference from Augustan practice; Brennan (2000, 402, 546) is also sceptical.

¹⁰³ Most scholars accept the five-year gap; Linderski (2007, 154 n. 75) appears to count the five years as I have suggested, and Hurlet (2006, 478) entertains the possibility.

¹⁰⁴ See below in this section on Cato (pr. 54) and Domitius Ahenobarbus (cos. 54), appointed to Sicily and Transalpine Gaul respectively in 49; C. Fannius may also have been a praetor of 54.

¹⁰⁵ Cf. Willems 1878–83, 2.591–2; Marshall 1972, 892 n. 20.

¹⁰⁶ Cf. Steel 2012, 84–5.

¹⁰⁷ Plut. *Cat. Min.* 27.3–28.1; *RDGE* no. 23, l. 14; Brennan 2000, 569–70; *MRR* 2.114, 174, 238. While a tribunate in 62 seems slightly late for a senator of 73, it is explicable on political grounds: Thermus was collaborating with Cato (Plut. *Cat. Min.* 27.3–28.1), who sought the tribunate that year in order to oppose the plans of Metellus Nepos (20.2–21.2). Ryan's argument (1994, 595–8) that Thermus governed Asia as *tribunicus* is mistaken: the *senatus auctoritas* of September 51 shows that he was *praetorius pro praetore*; Caes. *BC* 1.12.1 proves only that Thermus, like Cicero, was still *cum imperio* in 49.

69.¹⁰⁸ Broughton (*MRR* 3.208) suggests a date in 60 or the early 50s for his praetorship.

The only potential problem is M. Nonius, who probably held the province of Macedonia.¹⁰⁹ He is sometimes identified with Catullus' *struma Nonius* and credited with a praetorship or aedileship in 55,¹¹⁰ either of which would violate the five-year rule. M. Nonius has also been identified with the Sufenas often assigned a tribunate in 56, and the Pompeian Sufenas *cum imperio* in 49.¹¹¹ Each of these identifications is far from secure, and the 'M. Nonius Sufenas' produced would appear to be something of a prosopographical Frankenstein's monster. A serious objection to identifying the governor with (Nonius) Sufenas is the fact that Cicero refers to him as 'M. Nonius' in a list where Bibulus, Thermus, and Scrofa are all designated by cognomen alone¹¹²—as is Sufenas, in other letters.¹¹³ Rather, the use of the praenomen suggests concern to distinguish the governor from other contemporary Nonii (including, perhaps, Sufenas). M. Nonius *could* be Catullus' Nonius, but there is no shortage of other possibilities.¹¹⁴ At any rate, the case for identifying the governor of 51 with the praetor of 55 (if praetor he was) is not strong enough to disprove the five-year rule.¹¹⁵

The appointees for 49 suggest a similar pattern. Only for Cato, *propraetor* in Sicily,¹¹⁶ is the date of praetorship known (54). His appointment looks like a textbook application of the five-year rule, if it was counted as I have suggested. We may be reasonably certain that it applied also in the case of L. Aelius Tubero.¹¹⁷ Tubero was a contemporary of Cicero, praetor in 66 (*Cic. Lig.* 21). He had been legate under Quintus in Asia in 61–59 but was probably older

¹⁰⁸ Plut. *Crass.* 11.4; Cic. *Verr.* 1.30. Cic. *Att.* 6.1.13 SB 115 suggests that Scrofa held an unimportant province; Brennan (2000, 409) proposes Cyrene.

¹⁰⁹ See Shackleton Bailey 1965–70, 3.246; Brennan 2000, 538. Nothing is known of P. Silius' previous career, nor Considius', unless he is identified with the *quaesitor* at Saufeius' trial in 52, but the case is not strong (see further on M. Considius Nonianus).

¹¹⁰ Catull. 52.2. This individual evidently held curule office in the year of the poem, probably (but not necessarily) 55; see Linderski 1971, 285–6.

¹¹¹ See *MRR* 3.148, with references. We are probably dealing with a single Sufenas (cf. Brennan 2000, 538); however, his supposed tribunate should be discounted. It is based solely on the fact that Cic. *Att.* 4.15.4 SB 90 mentions Sufenas' trial along with that of C. Cato (tr. pl. 56), probably not even for the same crime (see Linderski 1971, 302).

¹¹² Cic. *Att.* 6.1.13 SB 115. P. Silius seems not to have had a cognomen (see Shackleton Bailey 1995, 92).

¹¹³ Cic. *Att.* 6.15.4 SB 90, 8.15.3 SB 165.

¹¹⁴ For example, Taylor (1964) suggests L. Nonius Asprenas; cf. Linderski 1971, 285.

¹¹⁵ Even if M. Nonius was praetor in 55, the exception might be explained by provisions for making up numbers, such as those found in the *senatus auctoritas* of September 51 (*Cael. fam.* 8.8 SB 84; see 'The senate's control over provincial appointments'). On my reading, the praetors of 55 would be the next college called up for 51. Cf. Steel 2012, 86 n. 10; Taylor 1964, 20.

¹¹⁶ Caes. *BC* 1.30.2; Plut. *Cat. Min.* 53.1.

¹¹⁷ Tubero was assigned Africa by lot, though he was prevented from taking up his province by P. Attius Varus: Cic. *Lig.* 21, 23; Caes. *BC* 1.30.2.

and perhaps already *praetorius*;¹¹⁸ his service under the praetorian Quintus can be explained by his personal ties with the Cicero family.¹¹⁹ Thus Tubero, like Thermus and Tremellius in 51, seems to be an example of a relatively senior appointment.

P. Sestius, who received Cilicia, was quaestor in 63.¹²⁰ The date of his praetorship is not known, but it is likely the five-year interval was observed: having been elected unanimously to the quaestorship (Cic. *Vat.* 11), he could hope to reach the praetorship in the minimum time, c.54. A date of 55 is attractive, the same year as his associate and fellow tribune Milo.¹²¹ There is a good chance C. Fannius, sent *cum imperio* to Sicily, also satisfied the five-year rule, though it is not clear that he held a regular appointment.¹²²

Two potential problem cases are Sufenas, *cum imperio* in 49, and M. Considius Nonianus, assigned Cisalpine Gaul for 49.¹²³ The possible identification of Sufenas with Nonius (pr. 55?) has been noted already. If we distinguish Sufenas from M. Nonius the governor of 51, as I have suggested, there is no obstacle to assigning Sufenas a praetorship in 55, but Sufenas and Catullus' Nonius may well be different people. Considius Nonianus is sometimes identified with the Considius who was *quaesitor* under the *lex Plautia de vi* in 52 and assigned a praetorship in that year, which would mean a breach of the five-year rule.¹²⁴ But the *quaesitor* may be a different Considius; moreover, it appears the president of the *quaestio de vi* was not normally a praetor.¹²⁵ Thus the hypothetical identification should not disturb conclusions drawn on firmer evidence.¹²⁶

In short, there is no reason to think that the five-year interval was dispensed with in 49, so far as the praetors were concerned. It was observed also in the

¹¹⁸ He was certainly senior to A. Allienus (pr. 49), probably by a considerable margin: Cic. *Q. fr.* 1.1.10 SB 1.

¹¹⁹ Cic. *Lig.* 21; *Planc.* 100. The legates of a praetorian governor were more usually of quaestorian rank (Marshall 1972, 907–8).

¹²⁰ Plut. *Brut.* 4.3; Cic. *Att.* 8.15.3 SB 165; *MRR* 2.168.

¹²¹ So *MRR* 2.202. The date of quaestorship is not a reliable indication of date of praetorship.

¹²² Fannius had been a candidate for the praetorship of 55, evidently with good prospects (Cic. *Sest.* 113–14). However, having opposed Pompey, Caesar, and Crassus in 59 (references in *MRR* 2.189), it seems probable that he (like Cato) was excluded from the praetorship of 55 and instead held office in 54. In 49 he was sent to Sicily in advance of Cato (Cic. *Att.* 7.15.2 SB 139, 8.15.3 SB 165). Brennan (2000, 676–7) argues that he was a subordinate and still sub-praetorian in 49. He later held command in Asia.

¹²³ Sufenas: Cic. *Att.* 8.15.3 SB 165. Considius: Cic. *fam.* 16.12.3 SB 14.

¹²⁴ Asc. 55C; Willems 1878–83, 1.512; *MRR* 2.240 n. 3.

¹²⁵ See Brennan 2000, 421; Linderski 1972, 195–6 n. 59. Note also that A. Torquatus, who presided over Milo's trial *de ambitu*, seems to have been praetor by 70, while Favonius (*de sodaliciis*) was sub-praetorian (aedile in 53 or 52). Obviously a praetorship for Considius later than 52 would also violate the five-year rule.

¹²⁶ The same applies to the possible identification of Considius the *quaesitor* with C. Considius Longus, governor of Africa in 51–50 (see 'The appointees for 51'). Note that the praenomen <C.> in Asc. 55C is Mommsen's insertion and has no manuscript authority.

case of L. Domitius Ahenobarbus (cos. 54), proconsul in Transalpine Gaul.¹²⁷ However, the appointment of Metellus Scipio (cos. 52) to Syria for 49 clearly did not comply. Some scholars have inferred that the rule was disregarded for political reasons at the outbreak of the civil war.¹²⁸ But, as Linderski observes, Caesar's silence is compelling evidence that Scipio's appointment did not violate the *lex Pompeia*.¹²⁹ His complaint is that L. Marcus Philippus and L. Aurelius Cotta had been passed over, not that Scipio's appointment was illegal.¹³⁰

The solution cannot be that the *lex Pompeia* did not apply to consuls.¹³¹ Both Caesar and Dio refer explicitly to consuls as well as praetors,¹³² and the consul-elect L. Aemilius Paullus' 'uncivil' talk of a province in 50 implies that he could not expect one in the normal course of things.¹³³ Moreover, there would have been no question of assigning provinces to Philippus (cos. 56) and Cotta (cos. 65) under the traditional system. Possibly Scipio's appointment was covered by interim arrangements.¹³⁴ Alternatively, I suggest that the law did apply, but stipulated a shorter interval for consuls. There was no clear advantage, and perhaps some disadvantage, in making a consul, who had already reached the top of the *cursus*, wait another five years for a province. A shorter interval would serve the basic function of the law, to provide opportunity for prosecution and postpone the potential rewards of provincial service. A two-year gap, for instance, would accord with both the interval in Scipio's case and the mandatory *biennium* between other offices.

A further possibility is that the law prescribed simply that praetors and consuls should not proceed to provinces immediately, and left the details of administration to the senate. Caesar's words can be read in this way (*ne ex praetura et consulatu*); compare also Suetonius' description of Augustus' 'revival' measure (Aug. 36), 'that magistrates, having laid down their offices, should not be sent immediately to provinces' (*ne magistratus deposito honore statim in provincias mitterentur*).¹³⁵ This hypothesis would also explain the evidence of the *senatus auctoritas* of September 51 that it was an earlier

¹²⁷ Cic. *fam.* 16.12.3 SB 14; Caes. *BC* 1.6.5; Suet. *Iul.* 34.

¹²⁸ See e.g. Willems 1878–83, 2.597–8; Marshall 1972, 892 n. 20, 894 n. 27.

¹²⁹ Linderski 2007, 152–4. Cf. e.g. Steel 2013a, 221–2 n. 31.

¹³⁰ Caes. *BC* 1.6.5; cf. 1.85.9.

¹³¹ The view of Giovannini (1983, 114–19) and Girardet (1987, 294–300).

¹³² Caes. *BC* 1.85.9; Dio 40.30.1.

¹³³ Cael. *fam.* 8.10.3 SB 87: *Paulus porro non humane de provincia loquitur*. ('Paullus, moreover, talks uncivilly about a province.') Cf. Brennan 2000, 794 n. 110; Linderski 2007, 153 n. 72; Steel 2012, 92. As Steel concludes, the *lex Pompeia* did not alter the military competence of consuls, but in general they would no longer be called upon to exercise it; neither did it affect the senate's ability to make emergency arrangements, hence the proposals in 51 for sending Pompey, Caesar, or the consuls to Parthia (Cael. *fam.* 8.10.2–3 SB 87; cf. Ferrary 2001, 107).

¹³⁴ This is Linderski's solution (2007, 154 n. 76).

¹³⁵ Cf. Dio 40.30.1 on the *lex Pompeia*: μήτε εὐθὺς μήτε πρὸ πέμπτου ἔτους ('neither immediately nor before the fifth year'). An interval as short as one or two years would have compelled

senatus consultum, and not the *lex Pompeia* itself, that defined eligibility.¹³⁶ But it is not essential to decide, since the length of the interval was less important than the fact of it. What is reasonably clear from the foregoing discussion is that the appointment mechanisms in place in 51 and (for praetors, at least) in 49 favoured ex-magistrates of several years' standing.

The senate's control over provincial appointments

Another question is whether the interval was intended as a fixed rule, which would send men to provinces more or less automatically after (say) five years, or merely a criterion of eligibility. There is no direct evidence on this point, since we cannot be certain how far the transitional arrangements in place from 52 until the civil war corresponded to the law proper. It seems more likely, however, that it was a starting point, and that the senate made arrangements to determine who, out of the pool of eligible persons, would receive provinces. That seems to be how the interval applied under the transitional measures adopted by the senate in 51 and 49,¹³⁷ and probably also when Augustus revived the *lex Pompeia*.¹³⁸ The effect was to give the senate, rather than the electorate, control over who would govern provinces in a given year. This would also support the function of the *lex Pompeia* as an anti-corruption measure by making it more difficult to 'bank on' the prospect of a province. Indeed, the combination of the senate's discretion and the new sortition arrangements discussed below introduced the possibility that an individual might not receive a province at all.

ex-praetors to choose between a province at the earliest opportunity and the possibility of a consulship *suo anno*.

¹³⁶ See Cael. *fam.* 8.8.8 SB 84 and n. 140, below.

¹³⁷ The appointment of men of quite varying degrees of seniority, such as Cicero (cos. 63) and Cato (pr. 54), suggests that the senate was choosing governors from the whole pool of eligible persons; in my view this was also the effect of the *senatus auctoritas* of September 51 (see below in the text).

¹³⁸ Under Augustus, the interval between consulship and proconsulship was generally considerably longer than five years (see Mommsen 1887, 250; Thomasson 1960, 15–20; 1982, 8), which suggests that the *quinquennium* was a starting point. Note also that in 24 a shortage of quaestors to serve in provinces was solved by drawing lots among all those who had held the quaestorship within the previous ten years but had not seen provincial service (Dio 53.28.4); conceivably this solution was modelled on the method of sortition for proconsuls and propraetors put in place three years earlier. Hurler (2006, 480; 2006a, esp. 37–48), however, argues that both Pompey's and Augustus' reforms favoured men who had held office exactly five years earlier, and that aberrations in the 20s are to be explained by special exemptions and a shortage of available and politically acceptable ex-magistrates. Certainty seems impossible in view of the very incomplete *fasti* for this period and further procedural changes during Augustus' lifetime and afterwards.

At any rate, the *lex Pompeia* left room for a *policy* on the part of the senate, and in 51 the senate's policy was to choose men who had not already held provincial command.¹³⁹ This is clear from the *senatus auctoritas* of 29 September 51 concerning the praetorian provinces for the next year:

Itemque senatui placere in Ciliciam provinciam in VIII reliquis provincias quas praetorii pro praetore obtinerent eos qui praetores fuerunt neque in provincia cum imperio fuerunt, quos eorum ex s. c. cum imperio in provincias pro praetore mitti oporteret, eos sortito in provincias mitti [placere]; si ex eo numero quos <ex> s. c. in provincias ire oporteret ad numerum non essent qui in eas provincias proficiscerentur, tum, uti quodque collegium primum praetorum fuisset neque in provincias profecti essent, ita sorte in provincias proficiscerentur; si ii ad numerum non essent, tum deinceps proximi cuiusque collegi qui praetores fuissent neque in provincias profecti essent in sortem coicerentur quoad is numerus effectus esset quem ad numerum in provincias mitti oporteret. si quis huic s. c. intercessisset, auctoritas perscriberetur. (Cael. *fam.* 8.8.8 SB 84)

It is likewise the senate's will regarding the province of Cilicia and the remaining eight provinces which *praetorii* hold *pro praetore* that those who have been praetors and have not been in provinces with *imperium*, such of them as it is proper according to the senate's decree to send with *imperium* to provinces *pro praetore*, be sent to provinces by drawing of lots. If, of this number, those who ought to go to provinces according to the senate's decree are less than the total required to go to these provinces, then, whichever college of praetors was first, those of them who have not gone to provinces should go to provinces in this way by lot; and if they are not sufficient in number, then in turn those of whichever college is next who have been praetors and have not been to provinces should be added to the lottery until the number is achieved that ought to be sent to provinces. If anyone vetoes this SC, let an *auctoritas* be recorded.

In other words, an earlier *senatus consultum* had defined a group of ex-praetors who were eligible for provincial service and in 51 the senate chose, from the larger group, those who had not previously held provincial command, with any shortfall to be made up from those without previous service but *not* eligible under the earlier decree.¹⁴⁰ The provisions for making up numbers from subsequent colleges of praetors show that some principle of seniority determined eligibility.¹⁴¹ But it was only a prerequisite, and indeed the senate had scope to deviate from its earlier determination.

¹³⁹ This seems to have been relaxed in 49: though not a regular province, Cato had gone to Cyprus in 58 with praetorian *imperium* (Vell. 2.45.4; Balsdon 1962, 134–5; Badian 1965, 111), and Metellus Scipio must have governed a province following his praetorship, since he appears to have celebrated a triumph in 54 or 53 (Varr. *RR* 3.2.16; Linderski 1985; 2007, 328 n. 10).

¹⁴⁰ The earlier SC evidently defined eligibility in terms of seniority (cf. Steel 2012, 86); it could be the decree of 53 or (more likely) a decree passed after the *lex Pompeia*, perhaps making arrangements for the interim period.

¹⁴¹ I take *uti quodque collegium primum praetorum fuisset . . . tum deinceps proximi cuiusque collegi qui praetores fuissent* to mean increasingly junior men who had held office *within* the

Further evidence comes from Cicero's letter to Atticus justifying his decision to leave his quaestor C. Coelius Caldus in command when he vacated his province (*Att.* 6.6.3 SB 121). So long as the Parthians were threatening, the obvious choice was Quintus, but to leave his own brother might seem to offend against the principle of one-year appointments and the senate's policy of choosing men who had not governed provinces before. The comments Cicero imagines seem to echo the *senatus auctoritas*.¹⁴² But the same policy applied earlier in 51 when Cicero received his appointment. He had made a show of refusing a province after his consulship,¹⁴³ nor is any previous command attested for the other governors of 51.

I suggest that the decision to appoint governors without previous provincial service was not merely an administrative solution to cover the interim period but part of an attempt to select responsible and upright governors.¹⁴⁴ Cicero makes out that the senate's policy also applied to his choice of deputy, which points to something more than an administrative convenience. A stereotype existed that men who refused provinces were of good moral character, and there is direct evidence that this view prevailed at the time when the *lex Pompeia* was in operation.¹⁴⁵ As governor of Cilicia in 50, Cicero claimed (somewhat glibly) that he could have won as much praise for integrity by refusing his province as by saving it (*fam.* 2.12.3 SB 95), and when the consuls of 51 disavowed any interest in a Parthian command, this was publicly received as evidence of their *temperantia* (*Cael. fam.* 8.10.2 SB 87). It is likely that, by choosing men who had previously refused provinces (and in Cicero's case, at least, accepted now with great reluctance), the senate thought it was choosing the best men for the job. Cicero takes a similar line in *De Legibus*, written around the time of his appointment as governor of Cilicia: in his ideal state, he says, provincial government would be seen as a burden rather than a boon, from which good and upright officials brought home nothing but

five-year period. This would explain any violations of the *quinquennium* in 51–49 (cf. Steel 2012, 86 with n. 10); for a similar application of seniority see Liv. 23.23.5 on M. Fabius Buteo's formula for choosing senators in 216. Linderski (2007, 154 n. 75) and Hurlet (2006, 478–9; 2006a, 41–2) discern in the decree of 51 a principle of 'reverse seniority', i.e. beginning with the praetors of 55 (or 56) and working backwards. But, as Linderski observes, this principle does not explain the appointment of Cicero and Bibulus when there were more junior consulars available, nor of Metellus Scipio, in breach of the *quinquennium* (n. 76). A third possibility, that *primum collegium* means the most senior surviving *praetorii*, likewise does not explain the appointments for 51 and 49 and is not attractive for practical reasons.

¹⁴² Cic. *Att.* 6.6.3 SB 121 (3 August 50): *quid quod senatus eos voluit praeesse provinciis qui non prae fuissent? at hic triennium*. ('What of the fact that the senate wanted men to govern provinces who had not done so before? Yet this man's had three years.')

¹⁴³ Cic. *fam.* 5.2.3 SB 2; *Att.* 2.1.3 SB 21; *Pis.* 5.

¹⁴⁴ Brennan 2000, 402 proposes a similar rationale for the *senatus consultum* of 53.

¹⁴⁵ Cf. Brennan 2000, 402 with n. 108.

laus.¹⁴⁶ These passages may actually preserve the rhetoric and rationale of the *lex Pompeia*.

The senate's discretion to choose the best men for the job may have gone beyond the sort of general rule found in the *senatus auctoritas*. Caesar claimed that the magistrates appointed under the *lex Pompeia* were those *per paucos probati et electi* ('approved and selected by a few'). He protests that the arrangement was untraditional, but he does not say that it was illegal; instead, he says, the laws had been changed to his disadvantage (*in se iura magistratuum commutari*).¹⁴⁷ Likewise, Caesar complains that the appointment of Scipio and Domitius over Philippus and Cotta was partisan, but again not actually illegal.¹⁴⁸ It is a complaint more about the influence of certain individuals within the senate than the actual appointment process—and Caesar's silence says much in a text where he is at pains to show his enemies in the wrong.

I think it probable, therefore, that Caesar is alluding to a legitimate discretion conferred on the senate by the *lex Pompeia* but exploited in 49 for political purposes—specifically, some discretion to 'approve and select' the men who would govern provinces, at least for the transitional period.¹⁴⁹ The extent of this discretion is unclear, but potentially it could have been used to select individuals on the basis of their ability or exclude them on moral grounds.¹⁵⁰ The gravity of passing over a duly elected representative of the Roman people might seem troubling, but that is the essence of Caesar's complaint, and it is worth noting, too, that the implementation of the *lex Pompeia* coincided with the reinvigoration of the censorship.¹⁵¹ On the other hand, there was nothing

¹⁴⁶ Cic. *leg.* 3.9, 18, 19. These passages and their relationship to the reform programme of 52–50 are discussed in chapter 8 ('The *utilitas* of glory'). On the date, see Dyck 2004, 5–7.

¹⁴⁷ Caes. *BC* 1.85.9: *in se iura magistratuum commutari, ne ex praetura et consulatu, ut semper, sed per paucos probati et electi in provincias mittantur*. ('The rights of magistrates are transformed against me, so that men are sent to provinces not following praetorship or consulship, as ever before, but as approved and selected by the few.') (The *pauci* are Caesar's opponents, including Cato and friends: see n. 205, below.) Similarly, Caesar (*BC* 1.6.5) complains that the assignment of provinces to *privati* was untraditional and undemocratic, but there was nothing illegal about it: the central premise of the *lex Pompeia* was that provinces would be assigned to private citizens.

¹⁴⁸ Caes. *BC* 1.6.5 (quoted under 'Sortition', below); cf. Linderski 2007, 152–3.

¹⁴⁹ Willems (1878–83, 2.592) holds that the senate nominated the two consular governors; Linderski (2007, 165–6) also inclines to this view, and Steel (2001, 223) suggests that the *lex Pompeia* gave the senate a more general freedom to choose individuals.

¹⁵⁰ The senate may have done something of the sort in the late second century: according to Val. Max. 6.3.3b, the senate debarred Cn. Cornelius Scipio from proceeding to his allotted province 'because he did not know how to act rightly' (*quod recte facere nesciret*). Valerius relates the senate's decision to Scipio's 'disgraceful record of life' (*vitae inhonestum actum*) and remarks that it was tantamount to a conviction for extortion. Cf. Brennan 2000, 909 n. 246. Tac. *ann.* 3.69 records a proposal in AD 22 to exclude disgraced or infamous men from the assignment of provinces (see 'Sortition').

¹⁵¹ As Pompey's colleague in 52, Metellus Scipio repealed Clodian legislation limiting the powers of the censors (Dio 40.57; on the *lex Clodia*, see Tatum 1990) and Cicero's *De Legibus*

revolutionary about the idea of selecting the best man for the job. Whatever the politics involved in any particular case, that was the principle behind the well-established phenomenon of ‘extraordinary commands’. Thus *Pro Lege Manilia*, for example, advocated Pompey for the Mithridatic command on the basis of his moral character and military prowess, and Clodius proclaimed Cato the only man worthy of the Cyprus mission by reason of his integrity (Plut. *Cat. Min.* 34.3). I suggest that the *lex Pompeia* adopted this useful feature of the ‘extraordinary commands’ but transferred (or restored) the initiative to the senate.¹⁵²

The duration of commands

We know that Cicero’s command and those of the other governors appointed under the *lex Pompeia* were fixed by law and *senatus consultum* to one year exactly, counted from the day of entry into the province.¹⁵³ As Marshall shows, this meant they were obliged to leave their provinces in the hands of deputies when, at the end of a year, no successors had been appointed (1972, 899–900). This was a significant change from the previous system, whereby a governor was entitled to remain in his province until his successor actually arrived, and for thirty days afterwards.¹⁵⁴

The new rule did not mean that a commander was forced to abandon his province in the middle of a war. A defence was available which allowed a governor to stay on if necessary *rei publicae causa* (‘for the sake of the state’), as Cicero considered doing when the Parthians were threatening.¹⁵⁵

probably reflects contemporary debate in advocating a strong censorship (Cic. *leg.* 3.7; cf. Astin 1985). Censors were elected for 50 and Ap. Claudius Pulcher did not hesitate to exercise the full moral powers of the office (sources in *MRR* 2.247–8). Cf. chapter 1 on the role of the censorship within Pompey’s reform programme in 70.

¹⁵² Cf. chapter 6, ‘The *senatus consultum de provinciis* of 53’ and Steel 2001, 217–25 on Pompey’s career as model for the *lex Pompeia*.

¹⁵³ See Willems 1878–83, 2.590; Marshall 1972, 895–901. Note that Cicero’s *imperium* was not subject to any time limit (in fact he retained it until 47), but his right to exercise it as governor of Cilicia was limited to one year. The relevant law was not the *lex Pompeia* itself but a law passed in 51 by the consul M. Claudius Marcellus (Cic. *fam.* 15.9.2 SB 101).

¹⁵⁴ See e.g. Cic. *fam.* 3.6.3 SB 69; Lintott 1993, 47.

¹⁵⁵ Cic. *Att.* 6.6.3 SB 121: *dum impendere Parthi videbantur, statueram fratrem relinquere, aut etiam rei publicae causa contra senatus consultum ipse remanere* (‘while the Parthians appeared to threaten us, I determined to leave my brother, or even to remain myself *rei publicae causa*, in contravention of the senate’s decree’). The exception was probably provided for in the *lex Pompeia* itself, as in the *lex de provinciis praetoriis* (RS no. 12) Cnidos copy, col. 3, ll. 1–15; cf. Cic. *Rab. Post.* 20 on the *lex Julia de pecuniis repetundis*. Evidently the senate’s failure to appoint successors was not sufficient grounds to activate the defence.

Moreover, it was only exceptional circumstances—veto by Caesarian tribunes—that meant Cicero and the others were left without successors.¹⁵⁶ Ordinarily they would have been succeeded or prorogued before their terms expired, as the senate tried to do in September 51.¹⁵⁷ But the principle is clear: governors under the *lex Pompeia* were obliged to leave their provinces at the end of the term laid down by the senate unless explicitly prorogued.

It is worth emphasizing that the *lex Pompeia* did not preclude prorogation per se, but only the ‘automatic’ or de facto prorogation which, in the past, had allowed a governor to remain in his province until his successor arrived.¹⁵⁸ Indeed, prorogation could be regarded as inevitable, since the number of praetors and consuls in any year fell short of the number of provinces to be governed.¹⁵⁹ I submit that prorogation was an integral part of the new system. While the governors of 51 were (initially) granted one-year commands, it appears the senate always intended to prorogue some of them. Even before he arrived in his province, Cicero was lobbying against any extension of his term, which shows that he expected to be called upon.¹⁶⁰ Sometime in 51 a motion was in fact made to prorogue him, and perhaps others as well; interestingly, the proposal came from Cato’s intimate Hortensius (Cic. *fam.* 3.8.9 SB 70). It was only later, and for political reasons, that the senate decided to replace Cicero and all the praetorian governors.¹⁶¹

Here, too, we can see traces of a policy, and not simply administrative expediency. Prorogation might occur for a number of reasons, such as the continuation of a war or the unavailability of a successor. But prorogation could also be justified (officially, at least) in terms of the best interests of the province. Explaining why he had allowed his brother Quintus to be prorogued as governor of Asia, Cicero professes to have been ‘taking care for the welfare of the allies’.¹⁶² Similarly (though less plausibly) he claimed that C. Claudius Pulcher had yielded to the best interests of his province by continuing as governor rather than returning to Rome to contest the elections for 53 (Cic. *Scaur.* 35). Proroguing an experienced and upright governor had obvious

¹⁵⁶ See esp. Cael. *fam.* 8.9.2 SB 82, 8.5.1–2 SB 83.

¹⁵⁷ See Cael. *fam.* 8.8.8 SB 84 and below in this section.

¹⁵⁸ See e.g. Brennan 2000, 94.

¹⁵⁹ Cf. Brennan 2000, 403; Steel 2012, 91. Since Pompey’s conquests, there were at least twelve, perhaps fourteen, provinces that received regular governors, though in 52 Pompey and Caesar accounted for four of them.

¹⁶⁰ Cic. *fam.* 3.8.9 SB 70 (8 October 51); *Att.* 5.9.2 SB 102 (14 June 51), 5.13.3 SB 106 (26 July 51), 5.17.5 SB 110 (15 August? 51), 5.18.3 SB 111 (20 September 51), 6.2.6 SB 116 (later part of April? 50); Cael. *fam.* 8.10.5 SB 87 (November 51).

¹⁶¹ Again, the years 51–50 cannot be regarded as typical. In 51 the senate replaced all governors except Pompey and Caesar, none of whom seems to have held office more recently than 54; the attempt to do the same for 50 was part of the senate’s scheme to recall Caesar from Gaul.

¹⁶² Cic. *Q. fr.* 1.1.2 SB 1: *sociorum salutis consulo*.

benefits for the province and probably also for the treasury.¹⁶³ Indeed, the *princeps* Tiberius, who likened governors in general to blood-sucking flies, considered prorogation for long periods less injurious to the provinces than a succession of annual governors, each in a hurry to extract as much as he could (Joseph. *AJ* 18.172–7).

The *lex Pompeia* embraced this principle of discerning prorogation. The time limitations put in place by the senate should be seen not as an attempt to create one-year commands, as Brennan has argued (2000, 403), but as a basis for annual review. A governor who met with the senate's approval could expect to be maintained for a second year or longer, as Cicero feared. One who did not would be required to vacate his province after a year, whether or not his successor had arrived, and failure to do so would likely be construed as *maiestas minuta*.¹⁶⁴ This was a useful safeguard against potential adventurers, especially as the *lex Pompeia* allowed for tribunician veto on provincial assignments. It also promised significant advantages for the provinces, which (in theory) should no longer have been saddled with corrupt governors for extended periods simply because of difficulties in replacing them.

Sortition

The *lex Pompeia* also changed the process by which provinces were assigned by lot. In normal republican practice, the physical *sortes* represented the provinces to be assigned.¹⁶⁵ This is evident from the language used to describe the process. An individual lot can be referred to as *sors* accompanied by an adjective or genitive, such as *peregrina sors* (Liv. 24.44.2) or *sors iuris dicundi* (Cic. *Mur.* 42), or simply by the name of the *provincia* it represented, such as 'Africa' or 'Sicilia'. These are said to be 'thrown into the lottery' (*in sortem coicere*) and to 'come out' for (*evenire*), or 'fall' to (*obvenire*), a magistrate in the dative case.¹⁶⁶ The

¹⁶³ For example, following the Varian disaster Augustus prorogued provincial governors 'that the allies might be secured by experienced and familiar men' (*ut a peritis et assuetis socii continerentur*: Suet. *Aug.* 23.1). See Asc. 15C, citing Q. Mucius Scaevola (cos. 95), for the idea that refusing a province was a means of avoiding expense, presumably because the cost of proroguing an incumbent governor would be less than that of outfitting a new one.

¹⁶⁴ i.e. violation of the senate's decree (cf. Cic. *Pis.* 50), unless the governor could show that he had acted *rei publicae causa*.

¹⁶⁵ This seems to be generally accepted: see e.g. Rosenstein (1995, 51 n. 28), Stewart (1998, 29–30), and Brennan (2000, 182–5 and *passim*), though only Stewart discusses the evidence for the sortition process.

¹⁶⁶ See e.g. Liv. 30.1.8, 30.27.2 and 4–5. This vocabulary parallels other passages where there is no doubt as to what was written on the *sortes*, e.g. Liv. 23.3.7; Cic. *Verr.* 2.2.127. Further confirmation comes from Liv. 39.45.4, where the senate's arrangements make sense only if the lots represented provinces (see Stewart 1998, 29) and 42.28.6, where Livy specifies that one *sors* was left blank (*integra*), for the senate to determine later.

process is not attested, but may have involved something like a 'lucky dip' by the magistrates themselves.¹⁶⁷

This evidence comes chiefly from Livy, and (in theory) reflects practice down to the 160s. Cicero's language, while less explicit on mechanical aspects, shows that the same method was used in the late republic.¹⁶⁸ However, the *lex Pompeia* changed the system (for the praetorian provinces, at least), so that the names of the men rather than the names of the provinces were placed in the urn. This is apparent from three passages:¹⁶⁹

si ii ad numerum non essent, tum deinceps proximi cuiusque collegi qui praetores fuissent neque in provincias profecti essent in sortem coicerentur quoad is numerus effectus esset quem ad numerum in provincias mitti oporteret.

(Cael. *fam.* 8.8.8 SB 84)

If they are not sufficient in number, then in turn those of whichever college is next who have been praetors and have not been to provinces should be added to the lottery until the number is achieved that ought to be sent to provinces.

Tuberonis sors coniecta est ex senatus consulto, cum ipse non adesset, morbo etiam impediretur: statuerat excusari. (Cic. *Lig.* 21)

Tubero's lot was cast in accordance with the senate's decree when he himself was not present and indeed was indisposed by illness; he had expected to be excused.

Scipioni obvenit Syria, L. Domitio Gallia; Philippus et Cotta privato consilio praetereuntur, neque eorum sortes deiciuntur. (Caes. *BC* 1.6.5)¹⁷⁰

Syria falls to Scipio, Gaul to L. Domitius; Philippus and Cotta are passed over by private agreement and their lots are not thrown in.

Particularly significant in these passages is the use of *coicere/conicere* (and *deicere*). *Coicere* has a clearly defined meaning in the language of sortition corresponding to its literal sense of 'throw together'. *Provinciae in sortem coniectae* is a standard phrase in Livy.¹⁷¹ That what is 'thrown' is what is

¹⁶⁷ Stewart (1998, 29–30) concludes that praetors, quaestors, etc. drew their own assignments in this way. In a lottery of names, presumably the *sortes* were drawn by a third party, as in Plaut. *Cas.* 412–15. Taylor (1966, 70–4) argues that the language of sortition reflects the physical process of pouring or 'whirling' lots out of an urn, perhaps filled with water.

¹⁶⁸ e.g. Cic. *Att.* 1.15.1 SB 15: *Asiam Quinto, suavissimo fratri, obtigisse audisti* ('you have heard that Asia fell to Quintus, sweetest of brothers'); Verr. 2.2.17: *ei sorte provincia Sicilia obvenit* ('the province of Sicily fell to him by lot').

¹⁶⁹ Other references to sortition under the *lex Pompeia* are not specific enough to indicate the process used, e.g. Caes. *BC* 1.30.2: *Sardiniam obtinebat M. Cotta, Siciliam M. Cato; Africam sorte Tubero obtinere debebat* ('M. Cotta held Sardinia, Cato Sicily; Tubero was bound by lot to hold Africa'). *Sorte* ('by lot') says nothing about the form of lottery employed.

¹⁷⁰ This passage refers to consular provinces, for which the selection process may have been different (cf. Linderski 2007, 153–4); even if misleading, however, Caesar's complaint suggests that, under the *lex Pompeia*, the names of men were placed into the urn.

¹⁷¹ Liv. 28.38.13, 30.1.9.

written on the *sortes* is confirmed by examples from other contexts.¹⁷² Therefore *qui praetores fuissent... in sortem coicerentur* in the *senatus auctoritas* must mean that the names of the ex-praetors are to be put into the urn, rather than the names of the provinces, as in earlier practice.¹⁷³ Likewise, *Tuberonis sors coniecta est* should mean that Tubero's name was thrown into the urn; *neque eorum sortes deiciuntur* that Philippus' and Cotta's names were left out. Since the *senatus auctoritas* does not specify the method of sortition used, it is likely the new process was specified in the *lex Pompeia* itself.¹⁷⁴

The description of the *sortes* also points to a change in process. As we have seen, the genitive can be used with *sors* to specify what it represented. Thus 'Tubero's lot' was not Africa (the province he received) but a lot bearing Tubero's name, and *Tuberonis sors coniecta est* means that his name was included in the lottery. Indeed, if the traditional form of sortition had been used, no particular *sors* could have been said to belong to Tubero while merely *coniecta*; he would have had to draw it first—and, as Cicero says, Tubero was not even present at the time in question. Similarly, *eorum sortes* describes lots bearing Philippus' and Cotta's names.¹⁷⁵

Further confirmation comes from scholia on the *Pro Ligario* passage:

'Tuberonis sors.' Cum enim ageretur ab senatu qui esset mittendus in Africam at tutandas Pompei partis, placuit rem sortito gerere. Ergo plurium in urnam coniecta sunt nomina, quae inter Tuberonis etiam fuit, cuique proficisci in Africam sorte venit. (Schol. Clun. 272St)¹⁷⁶

'Tubero's lot.' For when it was being discussed by the Senate who should be sent to Africa to protect the party of Pompey, it was decided to settle the matter by lot. Therefore the names of many men were thrown into the urn, among which was also that of Tubero, to whom it came by lot to set out into Africa.

Senatus iussit in sortem mitti nomina senatorum, ut imperatores novi mitterentur ad tenendas provincias. Africa evenit Tuberoni. (Schol. Gron. 291St)

¹⁷² e.g. *lex municipii Malacitani* col. 2, ll. 51–3; *Sen. ben.* 6.14.1.

¹⁷³ As Watson observes (1881, 240 n. 5), the *senatus auctoritas* uses of the *praetorii* the same expression used by Livy of the *provinciae*. Note that, while the *OLD* distinguishes the phrases *sortes conicere* ('to put lots into an urn') and *in sortem conicere* ('to subject to choice by lot', citing the *senatus auctoritas* as an example), there is no semantic difference between the two: in the three other passages cited for *in sortem conicere*, and indeed in all cases where the phrase occurs, what is 'thrown' is what is written on the *sortes*. There is no reason to think the *senatus auctoritas* is an exception.

¹⁷⁴ Other laws, including Pompey's *lex de vi* of 52 (Asc. 39C), made detailed provision for the use of the lot. If, as Rosenstein has suggested (1995, 53 n. 34), *sortitio* of the praetorian provinces was required by legislation, the *lex Pompeia* will in any case have superseded the existing law.

¹⁷⁵ *Scipioni obvenit Syria*, on the other hand, is typical of the pre-52 process. But *obvenire* often means simply 'be assigned (to)' (*OLD obuenio* 2), which is the meaning it has on the three other occasions when Caesar uses it (*BG* 2.23.1, 7.28.6, 7.81.6) and probably the sense in which it should be taken here, especially given the contradiction with the more technical language of the last part of the sentence.

¹⁷⁶ I am grateful to Patrick Tansey for bringing this passage to my attention.

The senate ordered names of senators to be put into a lottery, that new governors might be sent to hold the provinces. Africa fell to Tubero.

The scholiasts are late, but they are in harmony with each other and with the contemporary evidence of Cicero and Caesar, while the phrase *proficisci in Africam sorte* seems to reflect the technical language of provincial appointments (note particularly *sorte in provincias proficiscerentur* in the *senatus auctoritas*). Both state explicitly that the names of men were placed into the urn.¹⁷⁷ Thus it seems safe to conclude that, under the *lex Pompeia*, sortition involved drawing men rather than provinces.¹⁷⁸

The significance of this change is that it created the possibility of including more names in the urn than there were provinces to be assigned.¹⁷⁹ In fact, it must have been contemplated that some men would miss out as a matter of course, since the process outlined in the *senatus auctoritas* (calling up *praetorii* by college) could only coincidentally produce the same number of men as provinces.¹⁸⁰ For 49, the Cluny scholiast makes clear (on what authority, we do not know) that more names were placed in the urn than there were provinces to be drawn (272St). I believe this may have been a deliberate design feature of the *lex Pompeia*, intended to fight corruption by introducing an element of chance as to whether a given individual would receive a province at all. A similar principle lay behind the new process of jury-selection Pompey introduced in 52.¹⁸¹

This would also explain *why* the *lex Pompeia* changed the sortition process (since, if the number of men was equal to the number of provinces, the end result would be no different from the traditional system). Admittedly the number of surplus ex-magistrates available would be small,¹⁸² but even a

¹⁷⁷ Admittedly *Africa evenit Tuberoni* (Schol. Gron. 291St) conforms to the language of the traditional process but, as with Caes. BC 1.6.5, the unambiguous language of the first sentence must be preferred. The statement of Schol. Clun. 272St that the names of 'a great many' were placed in the urn could support the view that the five-year rule functioned as a criterion of eligibility.

¹⁷⁸ Note that this procedure functioned both to select men from a potentially larger number and match them with provinces, with no second lottery necessary. This is clear from *ita sorte in provincias proficiscerentur* in the *senatus auctoritas*. How exactly this was achieved, we can only speculate; conceivably the order in which names were drawn determined which province each man received (see Liv. 35.41 for a numbered list of the praetorian provinces). Linderski (2007, 154) envisions a two-stage process for consuls.

¹⁷⁹ Cf. Hurllet 2006a, 80, who approaches the problem the other way: since, under Augustus, the number of men exceeded the number of provinces, probably the *sortes* bore the names of the men.

¹⁸⁰ Hurllet (2006, 478; 2006a, 43) makes the same point.

¹⁸¹ See Asc. 39, 53C; Caes. BC 3.1.4; Gruen 1974, 237–9. As Gruen observes (238), judicial bribery was 'rendered immeasurably more difficult' by the fact that the jurors who would actually deliver the verdict were not selected until the very end of the trial.

¹⁸² In fact the number of annual magistrates was less than the number of provinces; however, I have suggested that prorogation was part of the framework of the *lex Pompeia*, and for the interim period the senate was able to draw on a larger pool.

slight chance of missing out might have had a significant impact on the cost of borrowing. At the same time the system could also be used, as it was in 49, to exclude individuals by omitting their names from the lottery. In essence, the number and identity of the men included in the sortition was no longer determined by the outcome of the elections but by the senate.

The *lex Pompeia* was short-lived. Caesar disregarded it if he did not actually repeal it.¹⁸³ Provinces were once again assigned to consuls and praetors, the latter appointed by Caesar himself without use of the lot (Dio 42.20.4). It is hard to discern a regular system of provincial appointments for the civil war period, but the sortition conducted by Antony in 44 appears (notionally) to have employed the pre-52 method,¹⁸⁴ and Augustus' 'revival' measure, as described by Suetonius, seems to presuppose that magistrates might otherwise proceed directly to provinces.¹⁸⁵ Augustus' arrangements offer a final clue to the nature of sortition under Pompey's law. Dio gives a detailed (if problematic) account:

τῇ δὲ δὴ βουλῇ ἰδίᾳ μὲν τοῖς τε ὑπατευκόσι τήν τε Ἀφρικὴν καὶ τὴν Ἀσίαν καὶ τοῖς ἐστρατηγηκόσι τὰ λοιπὰ πάντα ἀπένειμε, κοινῇ δὲ δὴ πᾶσιν αὐτοῖς ἀπηγόρευσε μηδὲνα πρὸ πέντε ἐτῶν μετὰ τὸ ἐν τῇ πόλει ἄρξαι κληροῦσθαι. (3) καὶ χρόνῳ μὲν τινι πάντες οἱ τοιοῦτοι, εἰ καὶ πλείους τῶν ἐθνῶν ἦσαν, ἐλάγχανον αὐτά· ὕστερον δέ, ἐπειδὴ τινες αὐτῶν οὐ καλῶς ἤρχον, τῷ αὐτοκράτορι καὶ ἐκεῖνοι προσετέθησαν, καὶ οὕτω καὶ τούτοις αὐτὸς τρόπον τινὰ τὰς ἡγεμονίας δίδωσιν. (4) ἰσαριθμούς τε γὰρ τοῖς ἔθνεσι, καὶ οὓς ἂν ἐθέλησιν, κληροῦσθαι κελεύει. (Dio 53.14.2–4)

For the senate, [Augustus] on his own authority assigned Africa and Asia to ex-consuls and all the remainder to ex-praetors, but for all of these he publicly declared that no one should be allotted before five years after holding office in the city. (3) And for a time all such persons, even if they were more numerous than the provinces, obtained them by lot; later, however, since some of these men did not govern well, these appointments too were handed over to the emperor, and accordingly, in a way, he allocates commands in these areas as well. (4) For he orders the same number to be drawn as there are provinces, and whomsoever he pleases.

Taken literally, Dio's statement that all eligible persons obtained provinces 'even if they were more numerous than the provinces' makes little sense. Probably what he means is that initially all eligible persons participated in the sortition.¹⁸⁶

¹⁸³ Cf. Girardet 1987, 304. Caesar's *lex de provinciis* of 46 introduced a very different system. The mandatory interval was dispensed with and *praetorii* once again governed *pro consule* (examples in *MRR* 2.308–10). Prorogation was prohibited; praetorian commands were limited to one year and consular commands to two (Cic. *Phil.* 1.19, 3.38, 5.7, 8.28; Dio 43.25.3).

¹⁸⁴ Cicero's language, though not decisive, suggests this, e.g. *Phil.* 3.24: *quae cuique apta esset, ea cuique obveniret* ('to each man fell what was fitting to each'). He claims the process was thoroughly rigged (3.24–6; cf. Stroth 1983, 454).

¹⁸⁵ Suet. *Aug.* 36, quoted earlier ('The interval under the law'). Cf. Dio 53.14.2–4.

¹⁸⁶ Cf. Rich 1990, 145.

The subsequent equalization of the number of men and the number of provinces suggests this.¹⁸⁷ Given the similarity between Augustus' arrangements and the *lex Pompeia*,¹⁸⁸ it would not be surprising if, originally, he also reproduced the form of sortition employed under Pompey's law. The ballot among a larger number of men for a smaller number of provinces most obviously suggests that the names of the men were placed into the urn.¹⁸⁹

The reason Dio gives for the change is also worth noting: to exclude unsuitable men from the government of the provinces (53.14.3). Similarly, under Tiberius, a proposal was made (and rejected) to exclude men from the sortition on moral grounds, with the *princeps* as arbiter.¹⁹⁰ The proposal was presented as a preventive measure, for the protection of the allies. In fact, under the *lex Pompeia*, the senate already had the power to exclude individuals from the sortition.

The appointments for 51

With the exception of Pompey and Caesar, all provincial governors were replaced in 51 under the *lex Pompeia*. Appointments seem to have been made early in the year and the governors left for their provinces within the next few months.¹⁹¹ For Cicero and Bibulus this is explicitly attested;¹⁹² for the others it can be inferred from the reference in the *senatus auctoritas* to 'the remaining eight provinces which *praetorii* hold *pro praetore*'.¹⁹³ The appointment of praetorian governors *pro praetore* is a hallmark of the *lex*

¹⁸⁷ How they were selected need not be considered here; for modern discussion of sortition under the principate see e.g. Mommsen 1887, 250–3; Thomasson 1960, 15–20; Eck 1974, 204; Alföldy 1977, 123–4; Talbert 1984, 349; van den Hout 1999, 393; Hurlet 2006a, ch. 1. The process changed at least once during Augustus' reign and perhaps several times in the course of the principate.

¹⁸⁸ Above all the five-year interval (Dio 53.14.2); also senatorial control over appointments and the principle that governors should be appointed annually and by lot (53.13.2). There were also important differences: all senatorial governors were styled proconsul, whether or not they had held the consulship (53.13.4); special arrangements applied based on marital status and number of children (§2); and proconsuls were prohibited from carrying swords or wearing military uniform (§3). Nonetheless, I suggest that the method of sortition initially put in place by Augustus (or at least Dio's description of it) reflects the *lex Pompeia*.

¹⁸⁹ But see Mommsen (1887, 251–2) for the suggestion that *Nieten* ('blank lots') were used.

¹⁹⁰ Tac. *ann.* 3.69 (AD 22). Tiberius opposed the motion. Cf. 3.32. Later, however, emperors did intervene to exclude candidates from the *sortitio provinciarum*. See e.g. Thomasson 1960, 20; Eck 1974, 221.

¹⁹¹ Cicero was probably assigned Cilicia around February 51 (see Stein 1930, 55; Shackleton Bailey 1977, 1.361); by 10 May he had set out for the province (*Att.* 5.2 SB 95), which he entered on 31 July (5.15.1 SB 108).

¹⁹² e.g. Cic. *fam.* 3.3.1 SB 66.

¹⁹³ Cael. *fam.* 8.8.8 SB 84: *VIII reliquas provincias quas praetorii pro praetore obtinerent* (i.e. in addition to Cilicia, made praetorian for 51). Scrofa and Silius, at least, were back in Rome by 16 October 50 (*Att.* 7.1.8 SB 124).

Pompeia. Prior to 52, *pro consule* is standard.¹⁹⁴ All eight, therefore, must have been appointed under the *lex Pompeia*—not only the governors of the eastern provinces named by Cicero (*Att.* 6.1.13 SB 115) but also C. Considius Longus in Africa,¹⁹⁵ and others whose names are not known.¹⁹⁶ Furthermore, it does not appear that any provincial appointments had been made in 53 or 52, aside from the extension of Pompey's command in Spain.¹⁹⁷ Certainly Ap. Claudius (cos. 54) was prorogued in Cilicia for this period, and probably also C. Claudius (pr. 56) in Asia, since his trial seems not to have taken place until 51.¹⁹⁸ Most revealing is the fact that the proquaestor C. Cassius was left unrelieved in the beleaguered province of Syria for over two years from Crassus' death in 53 until Bibulus' arrival in 51.¹⁹⁹ Possibly the senate was awaiting the implementation of the *senatus consultum* that became the *lex Pompeia*. While the non-assignment of provinces in 53 might be explained by the political turmoil of that year, no such obstacle applied once Pompey had restored order in 52.

The governors appointed under the *lex Pompeia* seem to have included an assortment of more and less senior men, as we would expect if the five-year rule applied as I have argued. The most striking feature, however, is the general moral calibre of governors of 51–50. That fact should probably be credited to the *lex Pompeia* and the policy of its application in 51, rather than to coincidence or the luck of the draw. The evidence is far from complete, but it was certainly not usual to find upright governors in all the eastern provinces.²⁰⁰ It is also conspicuous that most (if not all) of the known appointees fought on the republican side in the civil war,²⁰¹ and that at least three—Bibulus, Thermus, and Cicero—had personal connections with Cato.

¹⁹⁴ See e.g. Cic. *fam.* 13.6 SB 57, 13.40 SB 59, 13.42 SB 53; Balsdon 1962, 135 n. 10.

¹⁹⁵ The eight provinces referred to in the *senatus auctoritas* must include Africa (see Brennan 2000, 794 n. 114), definitely held by Considius in 51–50 (Cic. *Lig.* 2; Schol. Gron. 291St). He left his province in 50, perhaps because he (like the others) was obliged to do so, rather than to stand for the consulship as the Gronovian scholiast claims (cf. Sumner 1971, 268 n. 41).

¹⁹⁶ e.g. T. Furfanus Postumus (pr. 46?), in command in Sicily at the beginning of 49 (Cic. *Att.* 7.15.2 SB 139), was probably a proquaestor left in command in 50 when the (unknown) governor was obliged to vacate his province. Cf. Brennan 2000, 674–5.

¹⁹⁷ i.e. all other known commanders in 53 and 52 are either prorogued governors, deputies, or magistrates of 54. The only possible new appointment Brennan (2000, app. 5–7) assigns to the year 52 is P. Attius Varus, who governed Africa 'a few years before' 49 (*paucis ante annis*, Caes. *BC* 1.31.2), but Attius can just as easily be accommodated in 55, 54, or 53. On Pompey's command, see Plut. *Caes.* 28.8; *Pomp.* 55.7; Dio 40.56.2; App. *BC* 2.24.

¹⁹⁸ See *TLRR* no. 336.

¹⁹⁹ i.e. if a proquaestor was left on the frontline in Syria, it is most unlikely that governors were appointed to other provinces (cf. Cobban 1935, 73). But another factor, I suggest, is that Cassius was doing a good job (see chapter 6, 'C. Cassius in Syria').

²⁰⁰ See e.g. Cic. *leg. Man.* 65; *Q. fr.* 1.2.7 SB 2. In fact Thermus' predecessor, C. Claudius Pulcher, was convicted of extortion in 51 (*TLRR* no. 336), and Cicero took a dim view of his own predecessor Appius (see e.g. Cic. *Att.* 5.15.2 SB 108, 6.1.2 SB 115; *fam.* 3.8.2 SB 70).

²⁰¹ That is, whatever their ethical views, politically they were men likely to be inclined to cooperate with Pompey and/or Cato. See Shackleton Bailey 1960, where only P. Silius is listed as a possible Caesarian (265 n. 2).

I will argue in the final chapter that the governors appointed under the *lex Pompeia* were actively pursuing ‘Cato’s policy’ of ethical governance. But their appointment, too, was informed by Cato’s policy and indeed brought about by Cato’s friends. The names of Cato’s close associates attach to various measures concerning the provinces in this period.²⁰² In particular, M. Marcellus (cos. 51) was responsible for the *senatus consultum* and *lex* creating Cicero’s Cilician command, and probably all the appointments for 51–50,²⁰³ while Cato himself proposed that Cicero should safeguard King Ariobarzanes (Cic. *fam.* 15.2.4 SB 105). Marcellus was also *relator* of the *senatus auctoritates* of 29 September 51 and Domitius Ahenobarbus was the senior consular present at the drafting (Cael. *fam.* 8.8.5 SB 84). In addition, it was Hortensius who proposed that Cicero should be prorogued in Cilicia, very likely on the grounds of his moral excellence.²⁰⁴ Thus there is some truth in Caesar’s claim that the *lex Pompeia* handed control of provincial appointments to the ‘*pauci*’—his enemies in the senate.²⁰⁵ In 51, however, their choices were not narrowly political, but directed towards the protection of Rome’s provinces.

²⁰² Taylor (1949, 158) argues that Cato ‘either voluntarily or under constraint, stepped into the background’ in 51–50. On the contrary, he seems to have been very active, especially in provincial matters, albeit often behind the scenes.

²⁰³ See Cic. *fam.* 15.9.2 SB 101 on Cicero’s command. Presumably the others were also consular enactments, and Marcellus’ colleague Sulpicius is an unlikely candidate; indeed, he obstructed a levy to reinforce Cicero’s and Bibulus’ troops (Cic. *fam.* 3.3.1 SB 66). On Cato and Marcellus, see above n. 47.

²⁰⁴ Cic. *fam.* 3.8.9 SB 70; cf. Att. 5.17.5 SB 110, which might imply some connection between Hortensius’ proposal and Cicero’s reputation for justice and restraint. See ‘The duration of commands’ on the policy of prorogation and Cato *fam.* 15.5 SB 111 for Cato’s estimate of Cicero.

²⁰⁵ Caes. *BC* 1.85.9 (quoted in n. 147). Cf. [Sall.] *ep. ad Caes.* 2.3.2: *primum omnium summam potestatem moderandi de vectigalibus sumptibus iudiciis senatoribus paucis tradidit* (‘first of all he [Pompey] delivered up to a few senators the whole power of managing revenues, expenses, and the courts’). The *pauci* include Cato and associates such as Domitius Ahenobarbus and Favonius (2.4.2, 2.9.4). On this usage, cf. e.g. Caes. *BC* 2.22.5; Hirt. *BC* 8.50.2, 8.52.3; Raafaub 1974, esp. 128 n. 91, 167.

Cato's policy

In February 50, Cicero wrote to Atticus regarding his colleagues in the eastern provinces:

Thermum, Silium vere audis laudari; valde se honeste gerunt. adde M. Nonium, Bibulum, me si voles. iam Scrofa vellem haberet ubi posset; est enim lautum negotium. ceteri firmant *πολίτευμα* Catonis. (Cic. Att. 6.1.13 SB 115)¹

Thermus and Silius you rightly hear praised; they are conducting themselves very honourably. Add M. Nonius, Bibulus, me if you like. Now Scrofa I wish had somewhere he was able to do the same; he is a splendid thing to be sure. The rest are strengthening Cato's policy.

What was 'Cato's policy'? Gelzer (1969, 232) thought of an appeal to governors as part of Cato's war on corruption. Shackleton Bailey (1965–70, 3.246) described it as a 'policy of protecting provincials from governmental rapine', in connection with the *lex Pompeia*. Steel (2001, 205) suggests that Cato's principles were so well known that his name could stand for a particular approach to provincial government—'Cato's blueprint'—which respected the law and controlled the behaviour of individuals. And Fehrle (1983, 144–5) takes Cato's *πολίτευμα* to be his conduct in Cyprus, where he self-consciously set an example of diligence and propriety. The phrase suggests all these things. But I think 'Cato's policy' refers in particular to the policy of ethical governance associated with the *lex Pompeia*, the law which sent Cicero, Bibulus, Thermus, and the others to provinces in 51, and it is in this sense that the phrase will be used in the following discussion. That is not to deny that Cicero and the others had their own standards to uphold; on the contrary, it was Cicero's prior commitment to good governance that particularly qualified him to implement 'Cato's policy'. But Cato stood at the centre of the reform

¹ I accept Shackleton Bailey's emendation of the MSS reading *infirmant* to *firmant* (1965–70, 3.246); however, the nature of 'Cato's policy' is adequately clear on either reading (cf. Steel 2001, 205 n. 48). *Πολίτευμα* has a range of meanings; here it is probably best rendered as 'policy', but its potential cosmopolitan overtones are worth noting (cf. Dragstedt 1969, 84).

programme, to the point that his name could serve as shorthand for a set of principles and the cooperative effort to realize them in the governance of Rome's provinces.

CATO'S POLICY IN PRACTICE, 51–50

Cicero in Cilicia

When Cicero set out as governor of Cilicia, he was conscious of the need to live up to the standards of governance he had long proclaimed, not least in the recently published *De Republica*,² and implicit also in his adoption of Q. Mucius Scaevola (cos. 95) as *exemplum* of provincial governance.³ But Cicero's letters from Cilicia also appeal to an external ethical standard. While en route to the province he writes of his *causa*, which entailed moral standards he felt able to live up to only for one year.⁴ Elsewhere he remarks that his *diligentia* and *continentia* will satisfy expectations (*Att.* 5.3.3 SB 96), and it seems that those expectations were Cato's. *Continentia* and *diligentia* are two of the qualities Cato would emphasize in his letter to Cicero.⁵ Moreover, Cato is the yardstick by which Cicero repeatedly assesses his own conduct.⁶ He wrote to Atticus regarding Brutus' loan to the Salaminians, 'I think I will convince Brutus that I acted rightly; you I do not know; Cato I certainly will convince.'⁷ Other letters make the same point.⁸ But it is not only in this matter, of personal relevance to Cato as uncle of Brutus and patron of Cyprus, that Cicero invokes Cato's principles. As I argued in chapter 3, Cicero's request for a *supplicatio* was carefully framed to appeal to Cato and Cato's standards of ethical governance, and it may be that the 'Ligurian Momus' Cicero hoped to satisfy is also an obscure reference to Cato.⁹

² e.g. *Cic. Att.* 5.13.1 SB 106, 6.1.8 SB 115, 6.3.3 SB 117, 7.3.2 SB 126.

³ Both in letters from Cilicia (*Cic. Att.* 6.1.15 SB 115, 5.17.5 SB 110) and in earlier speeches (examples in chapter 1). See van der Blom 2010, 238–9.

⁴ *Cic. Att.* 5.11.5 SB 104: *videntur mihi nosse [nos] nostram causam et condicionem profectio-nis suae; plane serviunt existimationi meae . . . sed ego hanc, ut Siculi dicunt, †αὐξίαν† in unum annum meditatus sum; proinde pugna ne, si quid prorogatum sit, turpis inveniar.* ('They [Cicero's companions] seem to me to know my cause and the terms on which they set out; they are quite devoted to my reputation . . . But I have studied this "restraint", as the Sicilians say, for one year; therefore fight lest, if there be any prorogation, I'm found to be a disgrace.') As Shackleton Bailey (1965–70, 3.208) notes, the corrupt Sicilian word must mean something like 'restraint'.

⁵ Cato *fam.* 15.5 SB 111 (see chapter 3, 'Cato in his own words').

⁶ Cf. Gelzer 1963, 265.

⁷ *Cic. Att.* 6.2.8 SB 116: *haec a me ordine facta puto me Bruto probaturum, tibi nescio, Catoni certe probabo.*

⁸ *Cic. Att.* 5.21.13 SB 114, 6.1.7 SB 115.

⁹ *Cic. Att.* 5.20.6 SB 113 (19 December 51): *quod me maxime hortaris et quod pluris est quam omnia, in quo laboras ut etiam Ligurino Μώμῳ satis faciamus, moriar si quicquam fieri potest*

It is possible that Atticus, described as continually urging on Cicero the highest standards of restraint and propriety, was in this respect a conduit for Cato.¹⁰ Atticus' financial interests made him a less-than-likely advocate for provincial reform, as both the Scaptius episode and his earlier efforts to recover a loan from Sicyon demonstrate.¹¹ On the other hand, Atticus was close to Cato and his circle—evidently much closer than Cicero generally was¹²—and Cicero treats Cato's principles as 'assumed knowledge' between Atticus and himself; indeed, in the letters regarding Brutus' loan, 'what would Cato think?' functions as an objective test of propriety. It is Cato, rather than Atticus, whom Cicero ultimately wishes to satisfy (*Att.* 6.2.8 SB 116), and on one occasion he seems to draw a direct connection between Cato's principles and Atticus' exhortations:

igitur meo decreto soluta res Scaptio statim. quam id rectum sit tu iudicabis; ne ad Catonem quidem provocabo. sed noli me putare ἐγκλεύσματα illa tua abiecisse, quae mihi in visceribus haerent. flens mihi meam famam commendasti; quae epistula tua est in qua mentionem <non> facias? itaque irascatur qui volet, patiar... (*Cic. Att.* 6.1.7–8 SB 115)

Therefore, by my decree Scaptius was paid on the spot. Whether that was right you will judge; I will not even appeal to Cato. But do not think I have cast off your exhortations, which are fixed in my flesh. Weeping, you commended to me my good repute. What letter of yours is there in which you do not make mention of it? So let anyone rage who wants to; I shall bear it.

In other words, Cicero had obeyed Atticus' exhortations by acting as Cato (rather than Atticus) would wish. Further, if 'Momus' is perchance Cato, that letter shows it was Cato's standards that Atticus impressed upon Cicero.¹³

elegantius. ('What you most greatly urged and what is most important of all, in which you take pains that I should satisfy even Ligurian "Momus", let me perish if anything could be done more fastidiously.') Cicero adds, however, that he prefers the term *integritas* to *continentia* (see chapter 3, n. 49), which might suggest that *continentia* was a word 'Momus' used. Now, Momus is a personification of fault-finding and, as we saw in chapter 3, *continentia* is a term closely associated with Cato. Like Tyrrell and Purser (1904, 131), therefore, I suspect that 'Momus' is Cato, though why he is called 'Ligurian' remains a mystery. Shackleton Bailey's attempt to identify Momus with the tribune Aelius Ligus is not compelling (1965–70, 3.229; cf. 1995, 63).

¹⁰ Atticus' exhortations: e.g. *Cic. Att.* 5.9.1 SB 102, 5.13.1 SB 106, 5.21.5, 7 SB 114, 6.2.4 SB 116. Cf. Baraz 2012, 75, who takes the letters to Atticus of 51–50 *passim* as evidence that Cicero tried to uphold "Catonian" standards of gubernatorial behaviour'.

¹¹ To Cicero's horror, Atticus urged him to grant Scaptius' request for troops (*Cic. Att.* 6.2.8 SB 116), and Atticus seems to have used similar methods to put pressure on the Sicyonians (see chapter 4, 'Cato and the *lex Julia*'). Compare *Att.* 1.17.5 SB 17, however, where Cicero praises Atticus' *integritas* and indifference to profit, in the context of his decision not to go to Asia as Quintus' legate.

¹² Atticus managed Cato's and Hortensius' business affairs, as well as Cicero's (*Nep. Att.* 15.3).

¹³ *Cic. Att.* 5.20.6 SB 113 (above, n. 9).

Virtue-language abounds in Cicero's Cilician correspondence, particularly qualities of integrity, justice, and restraint, along with mildness and accessibility.¹⁴ These are the archetypal qualities of the good governor, and qualities essential to Cato's policy.¹⁵ The letters also provide more concrete examples of what that policy involved. Cicero put a stop to various illegitimate exactions that apparently had been common in the province: cities were no longer required to pay to avoid hosting troops in winter quarters (Cic. Att. 5.21.7 SB 114), the sums being voted for delegations in honour of Ap. Claudius were restricted,¹⁶ and M. Caelius' request for a levy in aid of his aedilician games met with the firm reply that such levies were not permitted and that Caelius, as one who had prosecuted others, should be more careful.¹⁷ In many instances Cicero acted at the request of the communities concerned.¹⁸ Meanwhile he forbade statues, chariots, or any but verbal honours to be decreed to himself (Att. 5.21.7 SB 114). But Cicero went further, declining even his legal entitlements under the *lex Julia de pecuniis repetundis* (Att. 5.10.2 SB 103, 5.16.3 SB 109) and instead paying all his own expenses, at considerable cost to himself.¹⁹ Moreover, since an upright governor was of limited use if he did not also control his staff, Cicero was anxious that all members of his retinue should observe the same high principles.²⁰ Here the legate L. Tullius appears as the exception that proves the rule: he, too, says Cicero, was generally *abstinens*, though on one occasion he did accept the travel allowance prescribed by the *lex Julia*.²¹ The result of all this, Cicero repeatedly emphasizes, is that he has put the province to no expense—none I say, not even a *terruncius*—much to the relief of the communities.²²

¹⁴ Cic. Att. 5.3.3 SB 96 (*continentia, diligentia*), 5.9.1 SB 102 (*modestia, abstinencia*), 5.16.3 SB 109 (*iustitia, abstinencia, clementia*), 5.17.2 SB 110 (*abstinencia*), 5.17.5 SB 110 (*iustitia and abstinencia*), 5.18.2 SB 111 (*mansuetudo and abstinencia*), 5.20.1 SB 113 (*aequitas, lenitas, gravitas*), 5.20.6 SB 113 (*integritas*), 5.21.5 SB 114 (*abstinencia, iustitia, facilitas, clementia*), 6.2.4 SB 116 (*moderatio, continentia*), 6.2.5 SB 116 (*clementia, facilitas*), 6.2.8 SB 116 (*integritas, elegantia*), 7.3.8 SB 126 (*integritas*); *fam.* 2.12.3 SB 95 (*integritas*), 15.3.2 SB 103 (*mansuetudo, continentia*), 15.1.3 SB 104 (*mansuetudo, integritas*), 15.4.1 SB 110 (*aequitas, continentia*), 15.4.14 SB 110 (*aequitas, continentia*).

¹⁵ On the virtues of the good governor, cf. e.g. Brunt 1990, 320–1; Combès 1966, 337; Braund 2007, 93; Hellegouarc'h 1963, 259–61; Fallu 1970, 182 n. 5; Pečírka 1955, 42–3.

¹⁶ At the cost of offending Appius, though Cicero did not go so far as to insist on the letter of the law: Cic. *fam.* 3.8.3 SB 70, 3.10.6 SB 73. Cf. 3.8.2–5 SB 70, 7.2–3 SB 71.

¹⁷ Cic. Att. 6.1.21 SB 115. On the levy, see Shackleton Bailey 1965–70, 3.251; Cic. *Q. fr.* 1.1.26 SB 1. Cf. Att. 5.21.5 SB 114, where Cicero asks Atticus to head off any inappropriate requests.

¹⁸ e.g. Cic. *fam.* 3.8.2 SB 70, 3.7.3 SB 71, 3.10.6 SB 73.

¹⁹ Cic. Att. 5.15.2 SB 108. Scaevola, too, had paid his own expenses: Diod. 37.5.1, 4.

²⁰ e.g. Cic. Att. 5.11.5 SB 104, 5.14.1 SB 107, 5.17.2 SB 110.

²¹ Cic. Att. 5.16.3 SB 109 with Linderski 2007, 316–18.

²² Cic. Att. 6.2.4 SB 116: *nullus inquam, ne terruncius quidem*. Cf. e.g. 5.10.2 SB 103, 5.14.1 SB 107, 5.16.3 SB 109, 5.17.2 SB 110, 5.20.6 SB 113, 5.21.5, 7 SB 114. At 6.1.2 SB 115 Cicero contrasts himself with Appius.

In addition to his studied restraint, Cicero took active steps to facilitate the financial recovery of the province. His edict included some novel provisions, 'most carefully drafted', for reducing the expenses of the Cilician communes.²³ He uncovered extensive corruption by local magistrates and compelled them to repay the money; as a result, he says, the communities were able to pay the taxation arrears of two *lustra* without hardship, a fact which earned Cicero the favour of the tax farmers as well.²⁴ Thanks to these measures, as the end of his term neared, Cicero was able to report that 'many communities have been freed from all debt, and many greatly relieved'.²⁵

These policies benefited not only provincials but also the *populus Romanus* as recipients of Cilicia's revenues. In a similar vein, Cicero claimed that no one besides the city quaestors would touch any of his booty and proposed to take sureties, so that both he and the state would be insured against transport risks (*fam.* 2.17.4 SB 117). In addition, he saw that the transfer of his expenses grant was carried out at a saving to the state, and insisted on returning part of it to the *aerarium* at the end of the year, rather than distributing it among his staff, as they seem to have expected.²⁶ Here, too, Cicero's principles align perfectly with Cato's—though his insurance strategy was probably preferable to Cato's corks (*Plut. Cat. Min.* 38.1).

The most challenging problem Cicero faced was the *publicani*. Cicero wrote to Quintus in late 60 or early 59, 'to satisfy the tax farmers . . . without allowing the allies to be destroyed would seem to require a kind of divine virtue'.²⁷ In 51 he named the *publicani* alongside Parthians and mutinous soldiers as his chief concerns on entering his province (*Att.* 5.14.1 SB 107). The best solution Cicero could offer his brother was to use his personal influence to persuade the provincials not to insist on their legal rights.²⁸ His own approach in Cilicia was similar:

De publicanis quid agam videris quaerere. habeo in deliciis, obsequor, verbis laudo, orno: efficio ne cui molesti sint. τὸ παραδοξότατον: usuras eorum quas pactionibus adscripserant servavit etiam Servilius; ego sic: diem statuo satis laxam, quam ante si solverint, dico me centesimas ducturum, si non solverint, ex pactione. itaque et Graeci solvunt tolerabili faenore et publicanis res est

²³ Cic. *fam.* 3.8.4 SB 70: *diligentissime scriptum*.

²⁴ Cic. *Att.* 6.2.5 SB 116; *fam.* 2.13.4 SB 93.

²⁵ Cic. *Att.* 6.2.4 SB 116: *multae civitates omni aere alieno liberatae, multae valde levatae sunt*. In writing to Cato (*fam.* 15.4.2 SB 110), Cicero's language is more condemnatory: *multas civitates acerbissimis tributis et gravissimis usuris et falso aere alieno liberavi* ('I liberated many communities from the harshest imposts, the heaviest interest payments, and false debts').

²⁶ Cic. *fam.* 2.17.7 SB 117; *Att.* 5.4.2 SB 97, 7.1.6 SB 124.

²⁷ Cic. *Q. fr.* 1.1.33 SB 1: *et publicanis satis facias . . . et socios perire non sinas divinae cuiusdam virtutis esse videtur*. Cf. §32.

²⁸ i.e. their rights under the *lex censoria*: Cic. *Q. fr.* 1.1.35 SB 1.

gratissima, si illa iam habent pleno modio, verborum honorem, invitationem crebram. (Cic. Att. 6.1.16 SB 115)

You seem to want to know what I do about the tax farmers. I make favourites of them, humour them, make flattering speeches, honour them—and work it out that no one is harmed by them. The most incredible thing: the interest rates laid down in their agreements were preserved even by Servilius. I do this: I fix a day sufficiently accommodating, and if they have paid before this I say that I will reckon at 1 per cent; if they have not paid, then as per the agreement. Thus the Greeks pay at a tolerable interest rate and the business is most acceptable to the *publicani*, if they now have verbal honours in ample measure, and numerous invitations.

In addition, Cicero's edict included an *exceptio*, taken from Scaevola's edict, which rendered unenforceable any contract where 'the deal has been done in such a way that in good faith it ought not be upheld'.²⁹ These provisions provided real protections for provincials.³⁰ In Cicero's hands, however, they were somewhat limited. Ultimately he preferred to rely on personal influence and flattery in dealing with the *publicani* rather than strict application of law. More generally, he was wary of offending friends and tax farmers alike, and was glad to leave major decisions to others.³¹ Thus Cicero was relieved to learn that the *pactiones* between the cities and the *publicani* had been settled before he entered the province, and left it without making a final decision on Brutus' loan; nor did he insist on the letter of the law where Appius' interests were involved.³² The same was not true of all governors—it appears the tax farmers *had* been controlled by Cicero's predecessors in Cilicia.³³ Moreover, Cicero was not confident of maintaining his high standards beyond one year, telling Atticus, 'I expect my renown for justice and integrity will be more lustrous if I depart quickly.'³⁴

Of course, these were problems Cicero would have preferred not to face at all. Indeed, he had already realized his own ideal of integrity when he resigned his consular province in 63.³⁵ It was only due to the *lex Pompeia* that he found himself in Cilicia—'against my will, and contrary to expectation'—and he was anxious to depart as soon as possible.³⁶ In the meantime he found himself in

²⁹ Cic. Att. 6.1.15 SB 115: *si ita negotium gestum est ut eo stari non oporteat ex fide bona*.

³⁰ Cf. Diod. 37.5.2 with Bauman 1983, 383–4 on Scaevola's strict administration of his edict.

³¹ Cf. Pečírka 1955, 44; Steel 2001, 197.

³² *Pactiones*: Cic. Att. 5.13.1 SB 106, 5.14.1 SB 107. As Steel (2001, 199) points out, Cicero is not interested in the justice of the agreements, only that they are not his problem. Brutus' loan: Att. 6.1.7 SB 115. Appius: n. 16, above; cf. Steel 2001, 199–200.

³³ Cic. Att. 6.2.5 SB 116; see chapter 2, 'Pompey and the *publicani*'.

³⁴ Cic. Att. 5.17.5 SB 110: *hanc gloriam iustitiae et abstinentiae fore illustriorem spero si cito decesserimus*. Cf. 5.11.5 SB 104.

³⁵ Cic. fam. 5.2.3 SB 2, 2.12.3 SB 95; Att. 2.1.3 SB 21; Pis. 5.

³⁶ Cic. fam. 3.2.1 SB 65: *contra voluntatem meam et praeter opinionem*. See chapter 7, 'The duration of commands' on Cicero's efforts to avoid prorogation.

the somewhat awkward position of espousing standards he knew he could not fully live up to. All of this strengthens the case that he was pursuing not only 'Cicero's policy' but *πολίτευμα Catonis*.

Bibulus in Syria

Probably the most important of the eastern governors in 51–50, though our dependence on Cicero obscures the fact, was Bibulus, who held the crucial province of Syria.³⁷ It is surely significant that Cato's son-in-law was entrusted with Rome's most volatile province and the brunt of the Parthian menace. To a much greater extent than the other governors of the east, Bibulus' task was military. I have also suggested that he was trying to repair relations between Rome and Parthia. At the same time, he was pursuing Cato's policy. This is most apparent in his restrictive attitude towards the *publicani*. Bibulus' edict contained a clause which Atticus considered a *grave praeiudicium* ('a severe pre-judgement') against the equestrian order. Cicero replied that his own edict contained an *exceptio* to the same effect, but more delicately worded.³⁸ Lintott makes the plausible suggestion that Bibulus' edict referred expressly to agreements made with *metus* or *dolus* (duress or deceit) on the part of the tax farmer, whereas Cicero's was phrased in terms of *bona fides*.³⁹ Interestingly, Bibulus can also be seen as continuing Gabinius' policy towards the Syrian *publicani*—another indication of affinity between Cato's policy and Pompey's.⁴⁰

A curious feature of Bibulus' administration is that he chose to disregard the provisions of the *lex Julia* requiring him to deposit copies of his accounts in two cities.⁴¹ The explanation could be that Bibulus denied the validity of the *lex Julia* altogether, since he had been 'watching the skies' at the time of its passage.⁴² Alternatively, Bibulus' action in 50 might be understood as a protest

³⁷ See chapter 6, 'Bibulus in Syria' on Cicero's deliberately distorted picture of Bibulus.

³⁸ Cic. *Att.* 6.1.15 SB 115. In addition, Bibulus claimed credit for the transfer of money at a profit to the state (Cic. *fam.* 2.17.7 SB 117), and so presumably to the disadvantage of the *publicani* who carried out the transfer (see Nicolet 1996, 22), though Cicero's eagerness to share the credit implies that he and Bibulus acted in accordance with propriety, if not normal practice. Note also that Bibulus had opposed the reduction of the Asian tax contract in 59 (Cic. *Att.* 2.16.2 SB 36).

³⁹ Lintott 1993, 61; cf. Bauman 1983, 384. Cic. *Q. fr.* 1.1.33 SB 1 refers to the *iniuriae* suffered even by Roman citizens at the hands of *publicani*; these likely amounted to *metus* or *dolus* in many cases. It appears the cap fitted.

⁴⁰ See chapter 2, 'Pompey and the *publicani*'.

⁴¹ Cic. *fam.* 2.17.2 SB 117. Cicero urged Sallustius, Bibulus' quaestor, not to follow his example.

⁴² So Cobban 1935, 158; Shackleton Bailey 1977, 1.458. On Bibulus' sky-watching, see e.g. Cic. *dom.* 40; *prov. cons.* 45–6. In fact, as Caesar's laws had not been annulled, they remained in force (see Linderski 1986, 2165 n. 54), but Bibulus seems not to have let procedural niceties stand in the way of his political point: he declared publicly that Clodius was never tribune because his

against the attacks Cato faced in 56 when he was unable to produce his account books⁴³—the point being, perhaps, that a good governor did not require the prescriptions of the *lex repetundarum* to govern well. In any case, it does not follow that Bibulus disregarded the (substantially tralatitian) *lex Julia* more generally, or the standards it represented.

Finally, it is worth noting Dio's statement that Bibulus went to govern Syria 'although it had been voted that no one, either praetor or consul, should go out into an external command either immediately or before five years had passed'.⁴⁴ This is plainly an error: on any reckoning of the five-year interval, Bibulus (cos. 59) was eligible. But Dio's mistake suggests that the source tradition drew a direct connection between Bibulus' appointment and the *lex Pompeia de provinciis*—presumably that Bibulus was appointed *as a result* of that reform. Thus Dio's account, though garbled, is evidence that the broader reform project made some impression on the historical tradition.⁴⁵

Thermus in Asia

Q. Minucius Thermus seems to have been a fairly senior figure when appointed to govern Asia under the *lex Pompeia*. Evidently he had declined a province following his praetorship, but his presence on the senatorial *consilium* which settled a dispute between Oropos and the *publicani* in 73 may point to some interest in provincial affairs (RDGE no. 23, l. 14). Of all Cicero's fellow governors in 51–50, it is Thermus who attracts the highest praise. Cicero says in one letter, 'the manner in which you administer justice is brilliant and is recognized, very much to your credit';⁴⁶ in another, 'as everybody thinks and as I observe, with not only your supreme *integritas*, but also your extraordinary *humanitas* and *mansuetudo*, you have brought it about that you attain what you wish from the most willing Greeks with a nod'.⁴⁷ Indeed, the virtues

adoption into the plebs had been carried out in violation of the auspices (Cic. *dom.* 40). Cato, by contrast, observed the *lex Julia* as praetor (Dio 38.7.6) and defended the validity of Clodius' legislation (Plut. *Cat. Min.* 40.2; Cic. 34.2; Dio 39.22.1). See Morrell, forthcoming b.

⁴³ Dio 39.23.3; Plut. *Cat. Min.* 38.3. See chapter 3, 'Cato in Cyprus'.

⁴⁴ Dio 40.30.1: *καίπερ ἐψηφισμένου μηδένα μήτε στρατηγὸν μήθ' ὕπατον μήτε εὐθὺς μήτε πρὸ πέμπτου ἔτους ἐς τὰς ἑξω ἡγεμονίας ἐξίέναι, ὥνα μὴ διὰ τοῦτο σπουδαρχοῦντες στασιάζωσι.*

⁴⁵ The fact that Dio refers to the SC of 53/*lex Pompeia* three times in book 40 (40.30.1, 46.2, 56.1) is also suggestive. In addition, Dio's obliviousness to Bibulus' military activities (see chapter 6, 'Bibulus in Syria') could reflect a source tradition that emphasized diplomatic and administrative achievements.

⁴⁶ Cic. *fam.* 13.55.2 SB 129: *ius enim quem ad modum dicas clarum et magna cum tua laude notum est.*

⁴⁷ Cic. *fam.* 13.65.1 SB 134: *quem ad modum omnes existimant et ego intellego, tua cum summa integritate tum singulari humanitate et mansuetudine consecutus es ut libentissimis Graecis nutu quod velis consequare.* While the MSS give the addressee as P. Silius, this letter

Cicero ascribes to Thermus parallel those he claimed for himself.⁴⁸ In addition, Cicero describes Thermus' legates as *virī optimi* and *homines innocentissimi* (*fam.* 2.18.2 SB 115). This is significant as a governor's choice of subordinates reflected on his own character, perhaps particularly in this period, when ethical governance was foregrounded.⁴⁹

The way in which Cicero writes to Thermus is also revealing. In requesting assistance for friends, Cicero tends to emphasize not only his own connection with the persons concerned but their moral excellence, and sometimes adds the qualification 'so far as your good faith will allow', or similar.⁵⁰ For instance, Cicero commends L. Genucius Curvus 'that you might accommodate him in all matters, so far as your good faith and *dignitas* will allow—but they will allow in all things, for he will never ask anything from you that is inconsistent with your morals or indeed with his own'.⁵¹ In the case of M. Anneius, says Cicero, Thermus need only apply his usual principles in giving judgement.⁵² As Cotton argues, such qualifications are not meaningless, but help to 'keep the exercise of *gratia* within the bounds of *iustitia* and allow it to be compatible with it'.⁵³

Similar statements are found in Cicero's letters to P. Silius.⁵⁴ They reflect not only the personal qualities of the individuals concerned, but a new emphasis on ethical governance. Riders like 'so far as your good faith will allow' appear only from 51, a fact not noticed by Cotton in her study of Cicero's 'letters of recommendation'.⁵⁵ Earlier letters are more blunt. For instance, writing to Q. Valerius Orca in 55 or 54, Cicero speaks frankly of influence and *gratia*; indeed, he and Valerius had devised in advance a symbol

was almost certainly written to Thermus (see Cotton 1986, followed by Shackleton Bailey in his Loeb edition).

⁴⁸ Cic. *fam.* 2.18.1 SB 115 (*integritas, clementia*), 13.55.2 SB 129 (*integritas, gravitas, clementia*), 13.65.1 SB 134 (*integritas, humanitas, mansuetudo*). For Cicero's virtues, see n. 14 above. Note the emphasis on *integritas* in both lists.

⁴⁹ Cf. Cic. *fam.* 13.55.1 SB 129 on Cicero's own legate M. Anneius.

⁵⁰ Cic. *fam.* 13.54 SB 132: *quoad fides tua patietur*. Cf. 13.55.1 SB 129, 13.53.1 SB 130, 13.54.1 SB 132, 13.64.2 SB 138.

⁵¹ Cic. *fam.* 13.53.1 SB 130: *ut omnibus in rebus ei [te] commodes, quoad fides tua dignitasque patietur; patietur autem in omnibus; nihil enim abs te umquam quod sit alienum tuis aut etiam suis moribus postulabit*.

⁵² Cic. *fam.* 13.55.2 SB 129: *ius instituto tuo dicere*. Cf. 13.56.2 SB 131.

⁵³ Cotton 1986a, 452. She notes that many of Cicero's requests entail the exercise of discretion rather than judicial authority (452–5).

⁵⁴ Cic. *fam.* 13.61 SB 135, 13.63.2 SB 137. Note also Caelius' *commendatio* for M. Feridius (*fam.* 8.9.4 SB 82).

⁵⁵ Cotton (1986a, 455–6) does draw a contrast between letters to governors and letters to praetors in Rome (Cic. *fam.* 13.58 SB 140, 13.59 SB 141), the latter more circumscribed, as was the praetor's jurisdiction compared to the broad discretion of a provincial governor. Conceivably, then, Cicero's letters to Thermus and Silius reflect an attempt to apply the same standards of justice in the provinces as in Rome; alternatively, as both letters to Rome were written in 50, it may be that they, too, were influenced by the reform project.

Cicero would use in his letters to denote any person Valerius should favour.⁵⁶ Particularly telling is a letter to Lentulus Spinther in Cilicia in 56, where Cicero asks Lentulus to confirm his predecessor's decision regarding the property of A. Trebonius, and to assist Trebonius in all other matters (*fam.* 1.3.2 SB 56). Like Thermus, Lentulus was regarded as an upright governor—elsewhere Cicero invites comparison with Scaevola (*fam.* 1.9.26 SB 20)—yet, in making his request, Cicero does not include the sort of qualification we find in the letters to Thermus and Silius. It seems the letters of 51–50 reflect a new practice which, without eschewing favour altogether, asserted the primacy of justice over private interests.

An official letter preserved in inscriptions at Miletus and Priene might provide further evidence of Thermus' commitment to justice, and of the broader aims of the reform project:

[.]ο Κοῦν[τ]ου Τ[.]ο[.]
 [. . .]|ρας [.] ἐπ' ἀκυρώσει ὧ[v] ἀνείλ[ηφε καὶ Μάρ-]
 [κω]ι Κικέρ[ων]ι συντυχῶν εὐχαρίστησε [τὰ ταχ-]
 θέντα ἐπ[ι]μ[ε]λῶς συντηρῶν τὰ ἐπ' ἐμ[οῖ] μὴ δια(?)-
 λύειν. ὅθεν πῶς ὑμεῖς τήν τινων περὶ [ταῦτα ἀ-]
 ναΐδειαν ἀνέσχησθε, τεθαύμακα· δι' ἧς [αἰτίας]
 πρὸς τε τὸ κοινὸν τῶν Ἑλλήνων γέγραφα, [πρὸς]
 [ὑ]μᾶς, Ἐφεσίους, Τραλλιανούς, Ἀλαβανδεῖς, Μ[υ]-
 [λ]ασεῖς, Σμυρναῖους, Περγαμηνούς, Σαρδιανο[ύ]ς,
 Ἀδραμυτηνούς, ἵνα τε ὑμεῖς πρὸς τὰς ἐν τῇ δι[ο]ι-
 [κ]ήσει τῇ ἰδίαι πόλεις διαποστείλησθε ἕν τε τῷ ἐπ[ι]-
 φανεστάτῳ τόπῳ ἐν στυλοπαραστάδι ἐπὶ
 λίθου λευκοῦ ἐνχαραχθῆναι φροντίσητε τ[αὐ]-
 τα τὰ γράμματα, ἵνα κοινῶς πάσῃ τῇ ἐπαρχείᾳ[ι τὸ]
 δίκαιον ἐσταμένον ἦι εἰς τὸν αἰὲ χρόνον, αἱ τε ἄλ-
 λαι πᾶσαι πόλεις καὶ δῆμοι τὸ αὐτὸν παρ' αὐτοῖς
 ποιήσωσιν, εἷς τε τὰ δημόσια ἀποθῶνται νομο[φυλά]-
 κια καὶ χρηματιστήρια. τὴν δὲ αἰτίαν δι' ἣν ἔλλ[η]ν[νι]-
 κοῖς ἔγραψα, μὴ ἐπιζητήσητε· κατὰ νοῦν γὰρ [ἔσ]-
 χον, μὴ τι παρὰ τὴν ἑρμηνείαν ἔλασσον τὰ [γεγραμ]-
 [μ]ένα νοῆσαι δύνῃσθε· τὴν δὲ ἐπιστολὴν ἔδωκα
 [Τι]μοκλῆι Ἀναξαγόρου καὶ Σωσικράτῃ Πυ[θ]ίωνος
 [πρ]οσβευταῖς Μαγνήτων τῶν πρὸς τ[ῷ] Μαιάν-
 [δρ]ωι. νν ἔρρωσθε. *vacat* (RDGE no. 52, Miletus copy, ll. 37–60)

⁵⁶ Cic. *fam.* 13.6.2 SB 57. Cf. e.g. 5.5 SB 5 to C. Antonius (in the year 62), 13.42 SB 53 to L. Culleolus (61 or 60), 13.40 SB 59 to Q. Ancharius (55 or 54). Note also 13.5.3 SB 319, a much later letter to Valerius Orca (46 or 45), where Cicero appeals to *gratia* rather than *aequitas*, though the comment is probably facetious (Cotton 1986a, 459–60).

[--] of Quin[t]us T[---] for the cancellation of debts which *he (it?) had contracted*, [and,] meeting [Mar[cus] Cicer[o] he expressed his thanks || and carefully preserved the [arrangements made] by *me* [--] | Thus, how you have endured the shamelessness of certain persons in [these matters] amazes me. For these [reasons] | I have written to the Koinon of the Greeks, to | you, to Ephesus, Tralles, Alabanda, M[y][l]asa, Smyrna, Pergamum, Sardis, | Adramyttium in order that (each of) you to the | cities in your own judiciary district might dispatch (copies of this letter) and see to it that in the most conspicuous place on a pilaster on | white stone there is engraved th[is] letter, so that in common for all the province | justice might be established for all time, and that all the oth[er] cities and peoples might do the same thing among themselves, | and that they might deposit (a copy of this letter) in the archives of the Nomophylakia and the Chrematisteria. The reason for which I wrote in Gre[ek], do not ask, since it was my intention | that nothing contrary to the (correct) interpretation of my let[ter] could possibly be in your mind. This letter [I have given] | to [Ti]mokles (son) of Anaxagoras and to Sosikrates (son) of Py[thion,] | envoys from Magnesia on the [Maeon]der.] vv Farewell. vv (trans. Sherck 1984, 97)

The letter is evidently that of a Roman magistrate to the capitals of the Asian communes. Sherck (*RDGE*, 275) deduces from the list of cities that the inscription dates between 56 and 50; this, combined with the reference to Cicero, suggests the identification of Quintus T[. . . .] as our Thermus and the author of the letter. Unfortunately, the very poor condition of the first thirty-six lines obscures its precise nature, but the concern with justice ([τὸ] δίκαιον) is clear, and the reference to debt cancellation recalls Lucullus' reforms in Asia and Cicero's efforts in Cilicia. While hardly conclusive, all this accords well with other evidence for Thermus' administration of Asia. Moreover, we happen to know that Cicero met Thermus at Ephesus en route to Cilicia in 51 and indeed intervened in the affairs of the city in an attempt to settle the *pactiones* for pasture tax.⁵⁷ In this connection, it is worth noting that the earlier part of the inscription referred to Ephesus (l. 13) and 'the laws' ([τ]οὺς νόμους, l. 15).

Alternative reconstructions are less compelling. Bowersock argues that the author is Octavian (c.29) and Cicero the orator's son, who governed Asia following his consulship in 30.⁵⁸ His argument is principally stylistic: the author's 'amazement' and the explanation of his decision to write in Greek better fit the future Augustus than a republican governor. But the absence of the Phrygian communes from the list in the letter poses a major obstacle to Bowersock's argument. As Sherck argued, this strongly indicates a date between 56–50, when these areas were attached to Cilicia.⁵⁹ More recently, Canali De Rossi (2000, 164–72) has upheld Sherck's argument on the date but assigned the letter to Pompey in 51. Leaving aside some more problematic details of

⁵⁷ Cic. *Att.* 5.13.1 SB 106; *fam.* 13.57.2 SB 133, 13.65.1 SB 134.

⁵⁸ Bowersock 1970, 226–7. He does not speculate on the identity of Quintus T[. . . .].

⁵⁹ Sherck *RDGE*, 275; cf. Habicht 1975, 68–71; Burton 1975, 93; Ferrary 2009, 137. Bowersock (1970, 227) is obliged to posit that these communes were detached from Asia a second time.

Canali De Rossi's reconstruction,⁶⁰ the suggestion is attractive, insofar as Pompey's *auctoritas* might have enabled him to address the province of Asia in a manner resembling the first *princeps*. However, it is hard to imagine Pompey sending an official letter to the province of Asia after the end of his consulship in 52. On the other hand, it seems possible that the letter was written by one of the consuls of 51–50, perhaps M. Claudius Marcellus (cos. 51), who was closely involved in the provincial reform project. That would also explain why Thermus (if the identification is correct) is referred to in the third person (l. 37).

On balance, it seems preferable to accept Sherk's dating and the reference to Thermus. Whether or not he was also the author of the letter, it is evidence for debt-reduction measures put in place by Thermus in pursuance of a larger concern with justice. The 'certain persons' might have been *publicani* and moneylenders—the 'usual suspects', so far as injustice in Asia is concerned—or perhaps even C. Claudius Pulcher, Thermus' predecessor, who was tried and convicted for extortion during 51.⁶¹ Moreover, the stated purpose of the letter—that in common for all the province justice might be established for all time—is virtually a summation of the aims of the reform project of 52–50. That statement would only be more significant if it emanated not from the governor of Asia but from the government at Rome.

In short, what evidence we have suggests that Thermus was just the sort of governor needed to realize Cato's policy. It is probably no coincidence that he had personal ties with Cato and Bibulus. As tribunes in 62, he and Cato had cooperated closely in opposition to Metellus Nepos, at some risk to their lives (Plut. *Cat. Min.* 27.2–28.1). In 50, Cicero complained that Bibulus wrote to Thermus about the Parthian war, but not to him (*fam.* 2.17.6 SB 117). Though not strictly true, this suggests some connection between Thermus and Bibulus. At the same time, Thermus was a *necessarius* of Pompey.⁶² Both politically and ethically, then, it seems Thermus was an excellent fit with the reform project.

⁶⁰ Canali De Rossi (2000, 170–1) argues that Pompey was reprimanding the people of Miletus for the behaviour of the rhetorician Aeschines (cf. Strab. 14.1.7), but it is hard to see why such a letter would be publicized throughout the province, while other sources emphasize Pompey's clemency and tolerance of free speech (e.g. Plut. *Pomp.* 10.6–7; Val. Max. 6.2.4, 7–8). Further, 'justice' (or perhaps 'lawfulness') seems a more natural translation of '[τὸ] δίκαιον' (ll. 50–1) than Canali De Rossi's 'il diritto', which he takes as referring to specific legislation passed by Pompey in 52 (2000, 168–70). Note also the use of [τ]ὸς νόμους at l. 15.

⁶¹ *TLRR* no. 336. Cf. Sherk *RDGE*, 276 n. 6 and (less plausibly) Merkelbach 1996 for some other possibilities.

⁶² Cic. *fam.* 13.56.3 SB 131. The presence of a Q. Minucius M.f. Thermus on Pompeius Strabo's *consilium* at Asculum (*ILS* 8888, ll. 4–5) might suggest a connection of long standing; Brennan (2000, 569–70) argues that this Thermus was the father of the Asian governor (Q.f.).

The other governors

We know virtually nothing of P. Silius, the governor of Bithynia, except that he was a friend of Cicero and that Cicero's 'letters of recommendation' to him include the sort of qualification found in those to Thermus ('so far as your good faith and *dignitas* will allow').⁶³ Cn. Tremellius Scrofa, on the other hand, seems to have had a reputation for moral excellence. He had been a member of the exemplary jury at Verres' trial; Cicero called him *homo summa religione et diligentia* and expressed his regret that Scrofa would not be able to continue as juror if the trial were prolonged into 69 (*Verr.* 1.30). In 51, Cicero lamented that Scrofa's province offered little scope to display his moral excellence (*Att.* 6.1.13 SB 115). It seems reasonable to conclude that he, like Thermus, was the sort of governor the reform project sought to create. Finally, Cicero and Thermus' deliberations over the appointment of deputies suggest that the policy of appointing morally upright individuals extended also to subordinates. Cicero was not satisfied with his ultimate choice of his quaestor C. Coelius, who lacked *gravitas* and *continentia*, but did not feel he could do otherwise (*Att.* 6.6.3 SB 121). Similarly, he urged Thermus to choose his quaestor L. Antonius so as not to give offence to a powerful family (2.18.2–3 SB 115). Thermus, evidently, had inclined towards his 'excellent and utterly upright' legates.⁶⁴

Most of our evidence for Cato's policy concerns the eastern provinces. The case of Africa, however, provides some evidence that it applied more broadly. I argued in chapter 7 that C. Considius Longus, governor of Africa in 51–50, was appointed under the *lex Pompeia*. We know nothing of his character. On the other hand, Considius' legate Q. Ligarius, who was left in command of the province in 50, is credited with moral qualities associated with the reform project. Cicero later claimed that, as legate, Ligarius 'proved himself so acceptable to citizens and allies alike that, as Considius left [Africa], he would not have been able to appease the people if he had put anyone else in charge of the province',⁶⁵ and that Ligarius' subsequent administration was such that 'his *integritas* and *fides* were most pleasing to both citizens and allies'.⁶⁶ Furthermore, Cicero (*Lig.* 2, 4) applies to Ligarius the trope of the reluctant governor as the best governor, which, as we have seen, was a hallmark of the reform project. Although it is part of Cicero's defence strategy

⁶³ Cic. *fam.* 13.61 SB 135: *quoad tua fides dignitasque patietur*; cf. 13.63.2 SB 137. Silius was a friend of Cicero through the *eques* L. Aelius Lamia (Cic. *fam.* 13.62 SB 136). He supported Cicero's triumphal ambitions in 50 (*Att.* 7.1.8 SB 124).

⁶⁴ Cic. *fam.* 2.18.2 SB 115: *viros optimos hominesque innocentissimos legatos*. Thermus ultimately chose Antonius: MRR 2.249.

⁶⁵ Cic. *Lig.* 2: *et civibus et sociis ita se probavit ut decedens Considius provincia satis facere hominibus non posset, si quemquam alium provinciae praefecisset*.

⁶⁶ Cic. *Lig.* 2: *et civibus et sociis gratissima esset eius integritas et fides*.

in the *Pro Ligario* to claim that Ligarius remained in Africa against his will (2–5), his emphasis on administrative rectitude and the wishes of the *socii* is significant nonetheless. The choice of Ligarius as legate in turn reflects well on Considius.

The appointments made for 49 were primarily political. I have argued, however, that the *lex Pompeia* continued to apply, and there is reason to think that some men, at least, were chosen partly for their moral character.⁶⁷ Most obvious is the case of Cato, assigned the strategically vital province of Sicily.⁶⁸ It is striking that, even in civil war conditions, Cato strove to safeguard the welfare of provincials, even to the point of relinquishing the island.⁶⁹ Another example is L. Tubero in Africa. Africa, like Sicily, was expected to play an important role in supplying grain to the republican forces,⁷⁰ and Tubero seems to have been the sort of governor who could be expected to keep the province on side. In his first letter to Quintus, Cicero speaks highly of Tubero's moral character (*Q. fr.* 1.1.10 SB 1). Tubero also fits the mould of the reluctant governor. In *Pro Ligario* (21), Cicero says that Tubero, like himself, was by nature disinclined to provincial command and had hoped to be excused on the grounds of ill health. Finally, P. Sestius, assigned Cilicia for 49, had earned an enduring reputation for *integritas provincialis* as quaestor in Macedonia (*Cic. Sest.* 13).

Setting an example

The immediate aim of Cato's policy was what Cicero tells Cato he has done, and what Cato praises him for doing: that is, saving his province by fair administration.⁷¹ But the reform project was not simply a response to the situation in the east. The *lex Pompeia* had transformed the nature of provincial command; Cato's policy sought to transform its ethos. To this end, we find the governors of 51 not only governing well but consciously setting an example for others.

Cicero certainly saw an exemplary role for himself.⁷² He says so explicitly with respect to his staff (*Att.* 5.11.5 SB 104), and he later commended his own

⁶⁷ Even allowing for exaggeration, Metellus Scipio was not among them; however, his exactions in Syria are probably to be explained by the requirements of the war, and the *publicani* seem to have suffered at least as badly as the provincials (*Caes. BC* 3.31–3).

⁶⁸ *Plut. Cat. Min.* 53.1 says Cato was assigned Sicily by lot, but his appointment may not have been entirely random. On the importance of Sicily to the republican strategy, see Welch 2012, 53, 56–7. Cato was appointed only after Cicero refused the task (*Cic. Att.* 7.7.4 SB 153).

⁶⁹ *Plut. Cat. Min.* 53.3; *Dio* 41.41.1; *App. BC* 2.40. Cicero criticized Cato (*Att.* 10.16.3 SB 208), but in fact the decision to give up Sicily was Pompey's: *Caes. BC* 1.30.5; Welch 2012, 57–9.

⁷⁰ *Cf. Quint. inst.* 11.1.80.

⁷¹ *Cic. fam.* 15.4.14 SB 110; *Cato fam.* 15.5.2 SB 111.

⁷² *Cf. Steel* 2001, 197, 200.

arrangements to C. Sextilius Rufus in Cyprus as a pattern to be followed (*fam.* 13.48 SB 142). Furthermore, Cicero compares himself to Scaevola, whose famous Asian governorship was commended by the senate as *exemplum atque norma* for others,⁷³ and to the principles of his own *De Republica*, which (like the unfinished *De Legibus*) maintained that moral reform was possible if leading men set the right example.⁷⁴ Cicero suggests a similar role for Thermus when he writes of the universal praise his administration has attracted,⁷⁵ and describes the province of Asia as a 'theatre' for excellence.⁷⁶ The idea of Asia as a stage occurs also in the first letter to Quintus: how fortunate it is, says Cicero, 'that your virtue, moderation of spirit, and restraint are not languishing in shadow nor hidden away but placed in the light of Asia, before the eyes of the most brilliant province and the ears of all peoples and nations'.⁷⁷ By contrast, Cicero's own province of Cilicia offered only limited opportunity for the display of talent and virtue (*Cic. fam.* 13.64.2 SB 138). It was for that reason, perhaps, that Cicero made much of his own restraint while passing through Asia.⁷⁸ What mattered was not simply to govern ethically, but to be seen to do so.

The conduct of Cicero and his fellow governors does seem to have attracted considerable contemporary interest. We have seen that Thermus and Silius were praised at Rome (*Cic. Att.* 6.1.13 SB 115), as of course was Cicero. Indeed, Cicero *expected* his ethical principles to be well known, and professed shock when Caelius made an inappropriate request.⁷⁹ The suspicion at Rome that Cicero's uprightness was intended as an attack on Appius (*Cic. Att.* 6.1.2 SB 115) reflects awareness not only that Cicero was governing well but that he wanted to be seen to govern well. At the same time, Cato was actively

⁷³ Val. Max. 8.15.6. According to Diod. 37.5.1, Scaevola consciously strove to set an example; cf. 37.3.5. On Scaevola as *exemplum* for Cicero in Cilicia, see van der Blom 2010, 238–9.

⁷⁴ e.g. *Cic. rep.* 5.1–2; *leg.* 3.28–32.

⁷⁵ *Cic. fam.* 13.55.2 SB 129, 13.65.1 SB 134; *Att.* 6.1.13 SB 115; cf. 2.18.1 SB 115.

⁷⁶ *Cic. fam.* 13.64.2 SB 138: *magnum theatrum habet ista provincia, non ut haec nostra, <ad> adulescentis nobilis, ingeniosi, abstinentis commendationem atque gloriam.* ('Your province provides a great theatre, as mine does not, for the praise and glory of a talented and restrained young nobleman.') Like *fam.* 13.65 SB 134, this letter was almost certainly written to Thermus rather than to Silius, as the MSS have it: see Shackleton Bailey 1977, 1.476–7.

⁷⁷ *Cic. Q. fr.* 1.1.9 SB 1: *quam istam virtutem, moderationem animi, temperantiam non latere in tenebris neque esse abditam, sed in luce Asiae, in oculis clarissimae provinciae atque in auribus omnium gentium ac nationum esse positam*... Cf. *Verr.* 2.5.35, where Cicero claims an audience of the *orbis terrarum* for his performance as quaestor in the *theatrum* of Sicily—a claim contradicted by *Planc.* 65 (cf. *Plut. Cic.* 6.3–4).

⁷⁸ e.g. *Cic. Att.* 5.11.5 SB 104, 5.14.1 SB 107.

⁷⁹ *Cic. Att.* 6.1.21 SB 115: *me moleste ferre, si ego in tenebris laterem nec audiretur Romae nullum in mea provincia nummum nisi in aes alienum erogari* ('it vexes me if I am hidden in shadows and it is not understood at Rome that, in my province, not a cent is paid out except on debt'). At *Att.* 5.17.2 SB 110, Cicero comments that he would prefer Atticus to hear of his *abstinentia* from others. Cf. e.g. 5.10.2 SB 103, 5.20.6 SB 113 on Cicero's *fama*.

publicizing Cicero's achievements.⁸⁰ Cicero calls him 'the one who extolled my achievements with divine praise'.⁸¹ Cato probably did the same for Bibulus, and very possibly others. In doing so he was promoting not only the men themselves but the ethical standards they represented.

STOIC MAIESTAS AND TRUE GLORY

The remainder of this chapter takes up a puzzle flagged in chapter three: Cato's use of the word *maiestas* in his letter to Cicero, which I think can be read as a specifically Stoic usage and a summation of the ethical aims of Cato's policy.

Cato (*fam.* 15.5.3 SB 111) wrote to Cicero in April 50, 'I wanted what I judged to be most splendid with regard to your *maiestas*' (*voluisse de tua maiestate quod amplissimum sim arbitratus*)—namely, recognition of Cicero's moral qualities, rather than a *supplicatio*. Shackleton Bailey translates *maiestas* as 'prestige', without comment. But *maiestas* is a strange choice of word, normally reserved for the gods and the *populus*, and used only by extension of magistrates in their official capacity.⁸² Its use to refer to an individual's *personal* prestige, which is surely the meaning of *tua maiestas* here, is unparalleled in extant republican sources (Wistrand 1979, 32). The usual term was *dignitas*, which appears frequently in Cicero's Cilician correspondence,⁸³ including a letter to Cato, if the fragment preserved by Nonius belongs to this context.⁸⁴ *Dignitas* can denote specifically prestige due to good provincial government.⁸⁵

⁸⁰ See chapter 3, 'Cato in his own words'. Note that Cato's speech praising Cicero was written down (*Cic. fam.* 15.6.1 SB 112). Cato's friends sent Cicero a copy; we do not know if it was circulated more widely.

⁸¹ *Cic. fam.* 2.15.1 SB 96: *qui ornavit res nostras divinis laudibus*.

⁸² So *Cic. inv.* 2.53: *Maiestatem minuere est de dignitate aut amplitudine aut potestate populi aut eorum, quibus populus potestatem dedit, aliquid derogare*. ('To diminish *maiestas* is to detract something from the *dignitas* or greatness either of the power of the people or of those to whom the people have given power.') Cf. Wistrand 1979, 32; Yavetz 1983, 79–80. For the *maiestas* of the gods and the people, see Lendon 1997, 275–6 with examples.

⁸³ e.g. Cicero appealed to the Marcelli to protect his *dignitas* (*fam.* 15.7 SB 99, 15.8 SB 100) and promised to uphold Ap. Claudius' (3.4.1 SB 67, 3.9.2 SB 72, 3.10.1 SB 73, 3.12.3 SB 75).

⁸⁴ Non. 705L = *Cic. ep. fr.* 11.1: *Nec idcirco mihi deserendam esse dignitatem meam quod eam multi impugnarint, sed eo magis recolendam quod plures desiderarint*. ('Therefore it was not necessary for me to abandon my *dignitas* because many assailed it, but rather to cultivate it all the more because many more longed for it.') Shackleton Bailey (2002, 335 n. 55) suggests that the fragment may be part of the exchange in 51–50 concerning Cicero's hopes for a triumph; certainly the fragment resonates with the extant letters (esp. *fam.* 15.4.13–14 SB 110, 15.6.2 SB 112).

⁸⁵ See e.g. *Cic. Q. fr.* 1.1.18 SB 1; *fam.* 2.18.1 SB 11.

It is also a quality ascribed to Cato himself.⁸⁶ It is somewhat surprising, therefore, that Cato refers not to Cicero's *dignitas* but to his *maiestas*.

Wistrand suggests that Cato uses *maiestas* in a specifically Stoic sense, meaning something like 'the epitome of an individual's moral excellence'.⁸⁷ This is supported by examples from the younger Seneca, and is all the more plausible in view of other Stoic elements in Cato's letter.⁸⁸ In the context of provincial administration, however, I think it possible the word has a more specific nuance. Conceivably, *maiestas* ('greatness') in an ethical sense corresponds to the 'betterness', in Stoic theory, of those fitted to govern others. An interesting comparison is Seneca's ninety-fifth letter, where he refers to the *maiestas* of the gods and their *bonitas*, 'without which there is no *maiestas*'.⁸⁹ He goes on to describe the gods as the rulers of the universe, who regulate (*temperare*) all things, act as guardians of the human race, and restrain and punish when necessary. The good man, he says, will imitate the gods. *Maiestas*, then, looks like the quality of one fit to rule. Thus, when Cato refers to Cicero's *maiestas*, it is possible he means specifically Cicero's moral excellence as a provincial governor.

As Griffin observes, Cato's reference to Cicero's *maiestas* is also part of a conversation about glory, the crux of which, she says, was whether the honours Cicero sought met the Stoic criteria for 'true glory'.⁹⁰ Cato's answer was a firm negative. The situation was somewhat more complicated, however. In the first place, Cato evidently did not consider even true glory worthy of pursuit in its own right.⁹¹ Moreover, there is reason to think that the honours Cicero sought fell short even of his own standard of *vera gloria*—which, I will argue, was essentially Stoic. This enabled Cato to refuse Cicero's request while appealing to the higher standard: that is, although Cato could not support the *supplicatio*, he claims that what he did do was 'much more glorious' (*multo clarius*) and 'most splendid' (*amplissimum*) for Cicero's *maiestas*. A closer investigation of the concept of glory at work in the exchange between Cicero and Cato will allow a better understanding both of Cato's letter and of the provincial reform effort of the late 50s.

In *De Finibus* book 3, Cicero puts a discussion of Stoic glory into Cato's mouth:

De bona autem fama—quam enim appellant *εὐδοξίαν* aptius est bonam famam hoc loco appellare quam gloriam—Chrysippus quidem et Diogenes detracta

⁸⁶ Cic. *dom.* 23; Sall. *Cat.* 54.2; Val. Max. 3.2.14.

⁸⁷ Wistrand 1979, 32–3, citing examples from Seneca (*ben.* 4.19.3–4; *ep.* 79.9–10, 95.50). Wistrand does not otherwise explore the Stoic content of the letter.

⁸⁸ See chapter 3, 'Cato in his own words'.

⁸⁹ Sen. *ep.* 95.50: *sine qua nulla maiestas est*.

⁹⁰ Griffin 1989, 35. The Stoics distinguished between *vera gloria*, accorded by good men for virtuous action, and *ficta gloria*, accorded by the ignorant mob. On Griffin's reading, it is common ground between Cicero and Cato that true glory is a reasonable aim (one of the 'desirable indifferents'), but Cicero fails to persuade Cato that a *supplicatio* (or triumph) fell into that category.

⁹¹ See below in this section.

utilitate ne digitum quidem eius causa porrigendum esse dicebant; quibus ego vehementer assentior. qui autem post eos fuerunt, cum Carneadem sustinere non possent, hanc, quam dixi, bonam famam ipsam propter se praepositam et sumendam esse dixerunt... (Cic. *fin.* 3.57)

Regarding good fame—for what [the Stoics] call *εὐδοξία* is, in this context, more aptly called ‘good fame’ than ‘glory’—Chrysippus and Diogenes, for instance, used to say that, once any practical advantage is subtracted, not even a finger is to be stretched out on its account; I strongly agree with them. However, those who came after them, when they were unable to hold out against Carneades, declared this good fame, as I have called it, something to be preferred and chosen for its own sake.

That is, Chrysippus and Diogenes ranked *εὐδοξία* among the ‘preferred indifferents’ of instrumental value: those things not worth seeking in themselves but only insofar as they are useful. Later Stoics accepted that *εὐδοξία*, though still not a ‘good’, was also valuable in its own right,⁹² but it is the older view with which ‘Cato’ vehemently agrees. The words Cicero assigns to him—*quibus ego vehementer assentior*—are a strong indication that this was the view of the historical Cato.⁹³

‘Cato’ proceeds to define *bona fama* (*εὐδοξία*) as the good opinion of relatives, friends, and *boni viri*, as well as good repute after death (Cic. *fin.* 3.57). His preference for *bona fama* rather than *gloria* in translating *εὐδοξία* suggests the existence of another, inferior, form of glory—probably what Cicero elsewhere calls *fama popularis*.⁹⁴ Other evidence makes clear that the source of true glory is virtue. In the *Tusculan Disputations*, in a passage probably derived from Chrysippus, Cicero defines true *gloria* as ‘the unanimous praise of good men (*boni*), the uncorrupted voice of those who are good judges of surpassing virtue’.⁹⁵ *Gloria* in this sense is the inevitable accompaniment of virtuous action; as Cicero says in book 1, ‘for although glory contains nothing in itself on account of which we should desire it, nonetheless it follows virtue like a shadow’.⁹⁶ In this sense, even for early Stoics, true glory is tantamount to a good.

This view of *gloria* and its relationship to *virtus* is found also in *De Officiis*: ‘Therefore, if anyone wishes to attain true glory, let him perform the duties of

⁹² Cic. *fin.* 3.56–7. The change was probably initiated by Antipater: Leeman 1952, 62; Long 1995, 232. Seneca, probably following Posidonius, even refers to *claritas* as a *bonum* (Sen. *ep.* 102.3; Leeman 1952, 78–9), though technically it was only a ‘preferred indifferent’.

⁹³ See chapter 3, ‘Cato the practising Stoic’.

⁹⁴ Cic. *Tusc.* 3.3–4. Cf. Leeman 1952, 59–62; Newman 1988, 146–8; Long 1995, 232.

⁹⁵ Cic. *Tusc.* 3.3: *consentiens laus bonorum, incorrupta vox bene iudicantium de excellenti virtute*. For the attribution to Chrysippus, see Graver 2002, 75–7 and app. C.

⁹⁶ Cic. *Tusc.* 1.109: *etsi enim nihil habet in se gloria cur expetatur, tamen virtutem tamquam umbra sequitur*. The idea that *gloria* is not worth seeking in itself accords with views of Chrysippus and Diogenes set out in *fin.* 3.57; note also that Chrysippus is cited by name at *Tusc.* 1.108. Cf. Sen. *ep.* 79.13.

justice'⁹⁷—or, in the words of Socrates, the way to glory is 'to act so as to be what one wishes to be thought'.⁹⁸ This passage forms a digression from the preceding discussion of glory in its more popular guise,⁹⁹ and seems to be influenced not by Panaetius but by the views of Chrysippus and Diogenes (Long 1995, 232–3). The arbiters of true glory are no longer the masses but the *boni* and *gloria* is, again, the concomitant of virtue.¹⁰⁰ This passage, along with the similar treatment of true glory in the first *Philippic*, probably draws on material from Cicero's lost *De Gloria*, also of 44.¹⁰¹ But Cicero was thinking on the same lines at least a decade earlier.¹⁰² A comparable model of true glory is found in *De Republica*, begun in 54 and published shortly before Cicero departed for Cilicia in 51 (Zetzel 1996, 2–3). In a fragment from book 6, Scipio says,

Sed quamquam sapientibus conscientia ipsa factorum egregiorum amplissimum virtutis est praemium, tamen illa divina virtus non statuas plumbo inhaerentes, nec triumphos arecentibus laureis, sed stabiliora quaedam et viridiora prae-miorum genera desiderat. (Cic. *rep.* 6.8 [12])

But although, for wise men, the very consciousness of their own illustrious deeds is the greatest reward of virtue, nonetheless that divine virtue longs not for statues cast in lead, nor for triumphs with withering laurels, but for rather more enduring and more evergreen kinds of rewards.

What these are is hinted at in the *Somnium Scipionis*. Africanus points out the smallness of the inhabited earth compared to the heavens and says to Scipio, 'what fame can you attain from men's talk or what glory worth seeking?'¹⁰³ He directs Scipio to think instead of eternity:

Igitur alte spectare si voles atque hanc sedem et aeternam domum contueri, neque te sermonibus vulgi dedideris nec in praemiis humanis spem posueris rerum tuarum, suis te oportet illecebris ipsa virtus trahat ad verum decus.

(Cic. *rep.* 6.25 [29])¹⁰⁴

Therefore, if you will cast your gaze high and behold this seat and eternal home, you will neither devote yourself to the chatter of the crowd nor place your hope in

⁹⁷ Cic. *off.* 2.43: *Qui igitur adipisci veram [iustitiae] gloriam volet, iustitiae fungatur officiis.* Cf. 1.65.

⁹⁸ Cic. *off.* 2.43: *si quis id ageret, ut qualis haberi vellet, talis esset.*

⁹⁹ Cic. *off.* 2.31–42; Dyck 1996, 424–6.

¹⁰⁰ See Cic. *off.* 2.43 with Dyck 1996, 425. Cf. Cic. *Phil.* 1.29.

¹⁰¹ Cic. *Phil.* 1.29; Stone 2008, 218–20; Dyck 1996, 426. Cf. Ramsey 2003, 139–40.

¹⁰² Sullivan (1941, 386) dates the change to Cicero's return from exile.

¹⁰³ Cic. *rep.* 6.20 [24]: *quam celebritatem sermonis hominum, aut quam expetendam consequi gloriam potes?*

¹⁰⁴ Cf. Zetzel 1996, 243, who suggests comparison with *Tusc.* 1.109. *De Republica* reflects an eclectic mix of philosophical ideas, and the chief influence on the *Somnium Scipionis* was Plato's 'Myth of Er' (*rep.* 614a–21d); however, Cicero's treatment of glory here, as in the later works, seems essentially Stoic.

human rewards for your achievements; virtue itself, by its own charms, ought to draw you to true glory.

Verum decus here is *vera gloria*, contrasted with *hominum gloria*,¹⁰⁵ though Cicero/Africanus' is not rejecting earthly glory altogether.¹⁰⁶ Once again, true glory is the inevitable reward of *virtus*, not to be confused with fame, statues, or triumphs. This is of particular significance for the present enquiry, since Cicero claimed *De Republica*, and book 6 in particular, as his model in governing Cilicia.¹⁰⁷

The same model, I suggest, underlies Cicero's treatment of *gloria* in writing to Cato. Cicero writes, 'I confess that I eagerly pursued those things from which true glory can arise, but this same glory I never thought worth seeking for its own sake.'¹⁰⁸ While not quite an accurate description of his own attitude, Cicero's statement accords with the early Stoic views found in *De Finibus*, the *Tusculans*, and *De Officiis*: glory in itself is not worth pursuing, but the pursuit of the sources of true glory is the pursuit of virtue itself. Cicero therefore feels compelled, as much by philosophy as by friendship, to explain his suit for a *supplicatio*:

Quaeres fortasse quid sit quod ego hoc nescio quid gratulationis et honoris a senatu tanti aestimem. agam iam tecum familiariter, ut est et studiis et officiis nostris mutuis et summa amicitia dignum et necessitudine etiam paterna.

(Cic. *fam.* 15.4.13 SB 110)

Perhaps you will ask why it is that I rate so highly this or that inconsequential piece of congratulation and honour from the senate. I will now deal with you frankly, as befits our studies, our mutual good services, the closest friendship, and indeed the intimacy of our fathers.

Here Cicero seems to concede that the honours he is seeking do not amount to true glory. Similarly, he admits to Atticus that his campaign for a triumph did not quite square with the ideal outlined in *De Republica* book 6—that is, true

¹⁰⁵ Cic. *rep.* 6.25 [29]; cf. Thomas 2002, 149. *Decus/decorum* (Greek τὸ πρέπον) is a Stoic term, equivalent to the *honestum* (Cic. *fin.* 2.35, 3.14; *off.* 1.94); it is also a form of temperance which harmonizes the other virtues (*off.* 1.96) and can be understood as the 'outward aspect' of *virtus*; 'a kind of moral beauty which "shines out" (*elucet*) in the life of the virtuous person': Gill 1998, 173, citing Cic. *off.* 1.98; cf. Dyck 1996, 251. As such it is close to true glory, which is likewise an image of virtue (e.g. Cic. *Tusc.* 3.3: *effigies virtutis*). Compare also the 'shining' of τὸ πρέπον (LSJ s.v. *πρέπω*; Dyck 1996, 242) and the use of *claritas* to denote true glory.

¹⁰⁶ Zetzel 1996, 243: 'what is to be scorned is the idea that the earthly glory which attends public life is valuable in itself.' Cf. Edelstein 1938, 363.

¹⁰⁷ Cic. *Att.* 6.1.8 SB 115, 6.3.3 SB 117, 7.3.2 SB 126. Indeed, by measuring himself simultaneously by Cato's standard and by the standard of *De Republica* (see esp. *Att.* 6.1.7–8 SB 115), Cicero implicitly assimilates the two.

¹⁰⁸ Cic. *fam.* 15.4.13 SB 110: *fateor ea me studiose secutum ex quibus vera gloria nasci posset, ipsam quidem gloriam per se numquam putavi expetendam*. Cicero distinguishes this *vera gloria* from 'empty praise and the talk of the crowd' (*inani laude et sermonibus vulgi*).

glory for virtue rather than triumphs and fame.¹⁰⁹ The explanation Cicero offers Cato for lowering his standards in this way is the *iniuria* he suffered as a result of his exile in 58. Since then, he says, he has been ambitious for honours to help heal that wound, and he appeals for Cato's assistance, while reminding him that many honours had been granted for lesser achievements (*fam.* 15.4.13–14 SB 110).

Cicero anticipated that this explanation would not satisfy Cato the philosopher, though he hoped Cato might make an exception. Indeed, in his reply to Cato's letter, Cicero acknowledges that Cato's response was completely proper.¹¹⁰ In other words, Cicero invoked the Stoic standard knowing he could not quite meet it, presumably because he knew it was the standard Cato would apply in any case. That is what we would expect, given the similarity between *vera gloria* as we find it in Cicero and the views of Chrysippus and Diogenes, which Cato shared. Certainly the *gloria* Cato ascribed to Cicero's exile (*Cic. fam.* 15.4.13 SB 110) must have been 'true' glory, rather than the popular kind, and the same model of glory was applied to Cato himself,¹¹¹ most obviously by Sallust, who says that Cato 'preferred to be rather than to seem good', with the result that, 'the less he sought glory, the more it pursued him'.¹¹² The idea of 'being rather than seeming' and *gloria* as the inevitable consequence of *virtus* neatly restates the Stoic standard we find in Cicero.¹¹³

Once again, confirmation comes from Cato himself. Cato responded to Cicero's request within the same framework of true glory. His speech and the senate's judgement were precisely that—praise for virtue from the *boni*¹¹⁴—and,

¹⁰⁹ *Cic. Att.* 7.3.2 SB 126. Cf. Sullivan 1941, 386–7.

¹¹⁰ *Cic. fam.* 15.6.1 SB 112: *nam ad meum sensum et ad illud sincerum ac subtile iudicium nihil potest esse laudabilius quam ea tua oratio quae est ad me perscripta a meis necessariis*. ('For, to my mind, and to that pure and accurate judgement [of a Cato], nothing can be more valuable than that speech of yours which has been written down and sent to me by my friends.') Cicero goes on to say that he considered the *supplicatio* not something to be coveted excessively but, if offered, not in the least to be rejected (§2).

¹¹¹ The glory of Cato's death was a favourite Stoic theme: see e.g. *Sen. ep.* 13.14, 82.12; Griffin 1986 and 1986a. Cf. below in this section on Val. Max. 2.10.8.

¹¹² *Sall. Cat.* 54.6: *esse quam videri bonus malebat: ita, quo minus petebat gloriam, eo magis illum adsequabatur*. Dyck (1996, 194) suspects that the passage was written with *Cic. off.* 1.65 in mind; similarity to a fragment preserved in *Macrob. Sat.* 6.2.33 (*maiora omnia re quam fama viderentur*, 'in all things [Cato] appeared greater than he was said to be') raises the possibility that Sallust was influenced by Cicero's *Cato* (cf. Jones 1970, 190), as perhaps was Vell. 2.35.2: *qui numquam recte fecit ut facere videretur sed quia aliter facere non poterat* ('[Cato] never acted rightly in order to be seen to do so, but because he was not able to do otherwise'). Note also *Aug. civ. Dei* 5.12, commenting on the Sallust passage: *et honores, quos petivit Cato, petere non debuit, sed eos civitas ob eius virtutem non petenti dare* ('even those honours which Cato sought he ought not to have sought; rather, the city should have given them to him, unsought, on account of his virtue').

¹¹³ On Stoic elements in Sallust see e.g. Stone 1999, 66–8, 74–5; 2008, 20 with n. 36.

¹¹⁴ *Cic. fam.* 15.6.1 SB 112: *ea est enim profecto iucunda laus quae ab iis proficiscitur qui ipsi in laude vixerunt*. ('For that praise certainly is pleasant which originates from those who themselves have spent their lives in praise.') Cf. *Sen. ep.* 102.16.

as he reminds Cicero, a much greater honour than a triumph (*fam.* 15.5.2 SB 111). Cicero was obliged to agree. Cato, he told Atticus, had voted him ‘more than if he had voted me all the triumphs in the world’.¹¹⁵ Admittedly Cato does not use the word *gloria* in the letter. Possibly he wished to avoid confusion with glory in its ‘popular’, potentially corrupting, form.¹¹⁶ Instead he writes of what was *clarius* for Cicero’s *maiestas*. But both these terms belong to the language of true glory, and the use of *clarus/claritas* can in turn shed light on Cato’s use of *maiestas*.

Claritas and its cognates are very closely related to *gloria*.¹¹⁷ In the first *Philippic* (33), Cicero uses *claritas* and *gloria* together to denote the true glory due to great deeds done for the good of the state, and *claritas* is Seneca’s preferred technical term for the highest form of glory recognized by the Stoics: ‘*gloria* depends on the judgements of the many, *claritas* on those of the *boni*.’¹¹⁸ It is certainly plausible that Cato chose a related word—*maiestas*—to describe a judgement that was more truly glorious than the pageantry of a triumph.¹¹⁹ *Maiestas* most obviously suggests *dignitas*, but it is also closely associated with *gloria*, as well as *claritas* and other honour words.¹²⁰ I suggest that Cato is using *maiestas* in a similar way to Seneca’s *claritas*, to denote true glory due to virtue. Cato links *maiestas* with *claritas*: his motion in the senate was *multo clarius* than a triumph (§2), and *amplissimum* for Cicero’s *maiestas* (§3).¹²¹ Cicero, too, offers support for a link between true greatness and true glory. In *De Officiis* (1.65), he writes that those who seek vulgar fame rather than moral goodness cannot be counted among the *magni viri*. And, in the first *Philippic* (29), he indicates that to seek great things (*magna quaedam*) is to seek (true) *gloria*.¹²²

It is also worth noting that early Christian texts use *gloria*, *claritas*, and *maiestas* interchangeably to translate δόξα (Hebrew *kabod*).¹²³ The biblical meaning of δόξα is distinct from the earlier use of the word to denote

¹¹⁵ Cic. *Att.* 7.1.7 SB 124: <plus decrevit> quam si omnis decresset triumphos. Cf. *fam.* 15.6.1 SB 112 and 2.15.1 SB 96 (to Caelius).

¹¹⁶ Note also ‘Cato’s’ preference for *bona fama* over *gloria* in Cic. *fin.* 3.57.

¹¹⁷ See Lendon 1997, 274, with examples. The ‘brightness’ of *claritas* is relevant here: true glory ‘shines’, as Cicero (*Sest.* 60) says of Cato himself.

¹¹⁸ Sen. *ep.* 102.17: *gloria multorum iudiciis constat, claritas bonorum*. Cf. *ep.* 102 *passim*; Leeman 1952, 66; Newman 1988, 149 n. 16, 151–2; Thomas 2002, 75.

¹¹⁹ Seneca (*ep.* 102.14–15, 17) describes *claritas* as the *iudicium* or *sententia* of the *boni*; Cato himself (literally) gave the *sententia* leading to the senate’s *iudicium* on Cicero’s virtue, which, he says, is *multo clarius* than a triumph.

¹²⁰ *Maiestas* and *gloria*: see e.g. Liv. 25.40.1, 44.41.1. *Maiestas* and *claritas*: see e.g. Val. Max. 2.10.6; Liv. 5.14.2–5. Cf. Lendon 1997, 275; Thomas 2002, 75.

¹²¹ *Amplitudo* is also related to *gloria* and *maiestas*: Thomas 2002, 75.

¹²² At *off.* 2.85, however, Cicero speaks of the greatness and glory of those who augment the empire and the revenues. This passage is at odds with Stoic views, found elsewhere in the work, on duties to the *societas hominum*. Cf. Griffin 2011, 319; Strasburger 1990, 90.

¹²³ Vermeulen 1956, 19–20; Billen 1929, 67, 189; Botte 1953, 111–13.

reputation or fame—or, in a Stoic context, the lowest form of glory. It refers to the innate greatness of God and is not dependent on the praise of others.¹²⁴ In the same way, Cicero's *vera gloria*, Seneca's *claritas*, and Cato's *maiestas* might represent different attempts to convey in Latin the Stoic concept of 'true glory'. Certainly 'Cato's' comments in *De Finibus* (3.57) indicate that the word *gloria* was not considered adequate. Indeed, it is conceivable that early Christian approaches to *δόξα* reflect the classical literature on 'true glory'. The influence of Stoic ideas on early Christianity is well known.¹²⁵ Augustine, for example, took a view of glory that was very close to the Stoic one.¹²⁶ Augustine had read Cicero, Sallust, and Seneca, and indicates that his approach to glory was influenced by these writers (*Joan. Ev. tract.* 100.1). Elsewhere, he uses *maiestas* as well as *gloria* and *claritas* to describe God's glory.¹²⁷ Conceivably, he had found *maiestas* used in this way in the classical literature.

Finally, Valerius Maximus' discussion of Cato in his chapter *De maiestate* describes something rather like 'true glory'. Valerius, explaining the people's respect for Cato's *maiestas*, says:

quibus opibus, quibus imperiis, quibus triumphis hoc datum est? exiguum viri patrimonium, astricti continentia mores, modicae clientelae, domus ambitioni clausa, paterni generis una imago, minime blanda frons, sed omnibus numeris perfecta virtus. (Val. Max. 2.10.8)

To what wealth, what commands, what triumphs was this given? The man had a meagre patrimony, manners cramped by restraint, a modest clientele, a house closed to canvassing, only one *imago* in the paternal line, a scarcely charming mien—but virtue perfect in every respect.

Maiestas as defined here—prestige due to virtue—is essentially identical with the Stoic concept of true glory, and the explicit comparison between *virtus* and conventional honours such as the triumph strengthens the resonance with Cato's letter. Again, like true glory, Valerius' *maiestas* is linked with *claritas* and *honor*.¹²⁸ *Gloria* itself does not occur in the chapter, but in the preface Valerius remarks on the resemblance between *maiestas* and admiration (2.10.pr). These parallels with the Stoic concept may not be coincidental. Recent scholarship has begun to explore Stoic elements in Valerius' work.¹²⁹ His treatment of *maiestas* may be another.¹³⁰

¹²⁴ See e.g. Kittel and Friedrich 1985, 178–80. *Δόξα* in this sense is not far removed from the Stoic concept of 'true glory'.

¹²⁵ See e.g. Colish 1985.

¹²⁶ e.g. Aug. *civ. Dei* 5.12, citing Sall. *Cat.* 54.6.

¹²⁷ Billen 1929, 67, with examples.

¹²⁸ *Claritas*: Val. Max. 2.10.pr, 6. *Honor*: 2.10.4, ext2.

¹²⁹ See e.g. Römer 1990; Langlands 2011; Lawrence 2015.

¹³⁰ Ciceronian influence is also possible. A similar comment on Cato occurs in Plut. *Phoc.* 3.1: καὶ γὰρ οὗτος οὐ πιθανὸν ἔσχεν οὐδὲ προσφιλὲς ὄχλῳ τὸ ἦθος, οὐδ' ἤνθησεν ἐν τῇ πολιτείᾳ πρὸς χάριν. ('For his manners were not persuasive or pleasing to the mob, nor did he bloom into a

Further support for this idea may be found in the final two chapters of book 8, on the desire for glory (8.14, *De cupiditate gloriae*) and on ‘distinctions which fell to individuals’ (8.15, *Quae cuique magnifica contigerunt*).¹³¹ In the preface to the former, Valerius poses the question of whether it would be better to disregard glory, since it is not necessary for virtue (8.14.pr) and, as he goes on to show, can be harmful (8.14.ext3). Certainly the examples Valerius cites concern glory of the inferior kind: *gloria* dependent on the words of others or material display.¹³² True glory is found in the next chapter, on *magnifica* due to *virtus*:

Candidis autem animis voluptatem praebuerint in conspicuo posita quae cuique magnifica merito contigerint, quia aequae praemiorum virtutis atque operum contemplatio iucunda est, ipsa natura nobis alacritatem sumministrante, cum honorem industrie appeti et exsolvi grate videmus. (Val. Max. 8.15.pr)¹³³

Distinctions of the kind which have been granted deservedly to individuals give pleasure to pure minds when placed in clear view, because contemplation of the rewards of virtue and of its works are equally delightful, since nature itself gives us joy when we see honour industriously sought and gratefully awarded.

The examples that follow are much more impressive than in the preceding chapter. *Honor* predominates, but *gloria* appears as well, and this time it is ‘true’ glory due to *virtus*—including, notably, the glory of Scaevola, whose incorruptible administration of Asia was commended as a model for others.¹³⁴ In addition, when Valerius says that relating some foreign stories will not diminish Rome’s *maiestas* (8.15.ext1), arguably he highlights the connection between *magnifica* and *maiestas*.¹³⁵ It may be no coincidence that Cato appears in both chapters (2.10.7–8, 8.15.10). Moreover, the *magnifica* due to virtue are explicitly contrasted with honours like the triumph: ‘Display all the

popular figure in the state.’) Jones (1970, 192) would attribute the immediately following sentence to Cicero’s lost *Cato*, and I think it possible the quoted passage and Val. Max. 2.10.8 both draw on the same work. Cf. n. 112, above.

¹³¹ These chapters conclude what Römer (1990, 103) identifies as the Stoic section of the *Facta et Dicta*. Wardle (1998, 7) and Bloomer (2001, 248), however, reject the idea of a Stoic structure.

¹³² e.g. Val. Max. 8.14.1–2 (laudatory poems) and 4–5 (jewellery).

¹³³ *Magnificus/magnificentia* are terms commonly associated with *gloria*; see e.g. Cic. Att. 14.4.2 SB 358; div. 2.5; fin. 3.11, 4.61; Gell. 4.18.1; Val. Max. 9.3.7. The reference to *natura* might suggest Stoic material.

¹³⁴ Val. Max. 8.15.6. Cf. 8.15.5.

¹³⁵ Romans were well aware of the connection between *maiestas* and the *mag-* root: for instance, Cic. part. or. 105 glosses *maiestas* as *magnitudo* and Ov. fast. 5.25–6 describes *Maiestas* as *magna* from birth. Cf. e.g. Ov. fast. 1.603–8; Luc. BC 8.759–60; Postgate 1917, 120; Hardie 2012, n. 35; de Moura 2010, 5. *Magnificus/magnificentia* are associated with *maiestas* (e.g. Suet. Vit. 10.1; Vitruv. arch. 6.5.2) as well as *gloria*.

Fasti, set up all the triumphal chariots, yet you will find nothing more splendid than pre-eminence in morals.¹³⁶

As his letter to Cicero shows, these are sentiments with which Cato thoroughly agreed. Indeed, I suggest that Cato and Valerius are using *maiestas* in the same specifically Stoic sense, to describe what Cicero calls *vera gloria*: true glory due to moral excellence.¹³⁷ By doing so, they distinguished true glory from its conventional (potentially unethical) forms. We should not dismiss this as 'humbug' on Cato's part, designed to excuse his refusal to vote for the *supplicatio*.¹³⁸ As we have seen, Cato's understanding of true glory was shared by Cicero, and I will argue that Cato had a larger purpose in mind.

The *utilitas* of glory

Even the most restrictive Stoic doctrine allowed that glory may be sought so far as it is useful (Cic. *fin.* 3.57), both to the individual and to the community. The *utilitas* of glory has several facets. First, the acts that give rise to true glory are themselves of benefit to others (not, incidentally, limited to fellow citizens).¹³⁹ Secondly, glory is a means of winning the support of others, which in turn facilitates the performance of further great deeds.¹⁴⁰ Possibly this is what Cicero means when he says that glory is to be 'invested' at a profit.¹⁴¹ Finally, glory provides impetus to virtuous action. This is true of both the promise of glory and the *exempla* of others who have attained glory. As Dyck (1996, 412) observes, *gloria* in *De Officiis* is 'the motor that drives a public career'. Properly virtue and not glory should be the aim, but for those who have not yet attained the perfect wisdom of the sage, the prospect of glory provides a useful incentive to virtuous action.¹⁴² Indeed, Seneca seems to have held that the wise man naturally seeks glory in order to create an *exemplum* for imitation (Newman 1988, 149–51, 153).

Maiestas, too, can be seen as a reward for virtuous conduct.¹⁴³ Valerius concludes the Roman part of *De maiestate* with his discussion of Cato's

¹³⁶ Val. Max. 8.15.3: *explica totos fastos, constitue omnes currus triumphales, nihil tamen morum principatu speciosius reperies*. Cf. 9.3.7.

¹³⁷ Cf. Lawrence 2015, who shows Valerius Maximus capable of serious engagement with Stoic ideas and working within an ideological framework shared with the younger Seneca.

¹³⁸ This is Shackleton Bailey's view (1977, 1.449).

¹³⁹ Cicero gives priority to the *res publica* (e.g. Cic. *Phil.* 1.29), but Seneca's discussion of true glory makes clear that the good man tries to benefit *omnes* (Sen. *ep.* 102.18), which is more in line with Stoic cosmopolitanism. Cf. Griffin 2011, 319.

¹⁴⁰ e.g. Cic. *off.* 2.16, 20, 31.

¹⁴¹ Cic. *off.* 2.42: *gloria et quaerenda et conlocanda ratione est*.

¹⁴² While stressing that virtue should be sought in its own right (e.g. *off.* 2.43), Cicero nonetheless assumes that most men long for glory (1.65). Cf. 2.35 on the distinction between virtue in its philosophical and real-world senses.

¹⁴³ So Skidmore 1996, 81, commenting on Valerius' description of Cato's *maiestas* (2.10.8).

maiestas. This was not a purely philosophical construct but was manifested in the applause of the crowd and the attendance of the whole senate when Cato was taken to prison (2.10.7, 8). Valerius remarks that Cato's very name defines an excellent and irreproachable citizen.¹⁴⁴ The corollary of this is that anyone who wishes for *maiestas* should imitate Cato.

In fact, Valerius' chapter on *maiestas* is fundamentally concerned with inculcating virtue.¹⁴⁵ In the preface, Valerius makes the interesting comment that 'the *maiestas* of illustrious men is a kind of private censorship'.¹⁴⁶ As Lendon puts it (1997, 55), *maiestas* here seems to describe 'a form of prestige with compulsive force', which enabled an illustrious man to influence the behaviour of others. The 'censorial' power of *maiestas* is an aspect of the power of exemplarity generally in the Roman world: more eminent individuals are better able to influence the behaviour of others.¹⁴⁷ This function of *maiestas* is not really demonstrated in Valerius' examples, however. *Maiestas* commands honour and *auctoritas*, but there is little indication that it has the power to alter behaviour. An exception is the story of Cato at the Floralia: Valerius tells us that the audience was too ashamed to ask the mime girls to disrobe with Cato present (2.10.8). Even so, the censorial effect of Cato's *maiestas* lasted only so long as he was present; when he left the theatre, the performance continued as usual.¹⁴⁸

The significance of this episode is not clear, but there is other evidence that the historical Cato attempted to use his reputation for moral excellence to modify the behaviour of his contemporaries. As an electoral candidate, for instance, Cato's pointed adherence to the laws seems to have had some effect on the behaviour of his competitors.¹⁴⁹ Most significantly, for present purposes, Cato intended his scrupulous administration of Cyprus as an example to others.¹⁵⁰ Furthermore, he appears to have defined his achievement by contrast with vulgar forms of glory. Dio attributes to Cato the thought that it

¹⁴⁴ Val. Max. 2.10.8: *quae quidem effecit ut quisquis sanctum et egregium civem significare velit, sub nomine Catonis definiat*.

¹⁴⁵ Cf. Skidmore 1996, 81. Langlands (2006, 191) and Lawrence (2006) stress the importance of reading Valerius at the level of the chapter.

¹⁴⁶ Val. Max. 2.10.pr: *est et illa quasi privata censura, maiestas clarorum virorum*. He proceeds to liken *maiestas* to a public office. Note that this chapter directly follows 2.9, *De censoria nota*.

¹⁴⁷ See e.g. Cic. *leg.* 3.32.

¹⁴⁸ Cf. Sen. *ep.* 97.8; Mart. *ep.* 1.pr.

¹⁴⁹ Plut. *Cat. Min.* 8.2 describes how Cato, when a candidate for the military tribunate, rigorously obeyed a law forbidding the use of nomenclators and instead made it his own business to greet those he encountered. In doing so, says Plutarch, 'he caused trouble for those who praised him: the more they perceived the propriety of his practice, the more they were weighed down by the difficulty of imitating it' (οὐδ' αὐτοῖς ἀνεπαχθὴς ἦν τοῖς ἐπαινοῦσιν, ὅσον μᾶλλον ἐνόουν τὸ καλὸν ὧν ἐπετήδευε, τὸ δυσμύμητον αὐτῶν βαρυνομένοις). Cf. 49–50 on Cato's campaign for the consulship. Since the elections apparently were free from corruption (cf. Dio 40.58.3), it may be that Cato's example had some effect on his fellow candidates.

¹⁵⁰ See chapter 3, 'The Cyprus mission as *exemplum*'.

was 'more rare for anyone to despise money than to conquer the enemy'.¹⁵¹ The idea was a commonplace,¹⁵² but perhaps one Cato made his own.¹⁵³ When Cicero wrote to Cato that 'in all ages fewer men have been found who have conquered their own desires than have conquered enemy armies', he may well have been echoing Cato's own sentiments.¹⁵⁴

Plutarch's account of Cato's return from Cyprus likens it to a triumph (*Cat. Min.* 39.1); according to Dio (39.23.1), there was some expectation that Cato would actually be voted a triumph. In fact special honours were proposed, and the sources directly connect these with Cato's moral excellence. Valerius, in his chapter *De moderatione*, says that the senate acted in gratitude for Cato's *diligentia* and *sanctitas* in bringing the money from Cyprus.¹⁵⁵ Dio, too, associates the special honours with Cato's scrupulous and upright conduct in Cyprus and says that Cato obtained still greater renown (*εὐκλεία*) by opposing the measure (39.22.4–39.23.1). In reality, it was surely the wealth he had brought to Rome that most impressed Cato's contemporaries, so one might ask how far Cato himself was responsible for emphasizing the ethical element.¹⁵⁶ In any case, it seems fair to say that Cato used the Cyprus mission to promote not only his own *virtus* but also a model of excellence that privileged moral above military achievement.

Cato's response to Cicero's request for a *supplicatio* can be understood in the same way. Cato publicly praised Cicero's moral qualities and at the same time proclaimed that such praise was superior to conventional forms of glory. In other words, he was promoting both ethical governance and an honour system that did not depend on plunder and bloodshed. Such a model had obvious appeal to a Stoic who took seriously man's obligations to the *societas hominum*. *Maiestas* or 'true glory', by whatever name we call it, offered an incentive for Romans in the provinces to fulfil those obligations and to refrain from conduct which harmed others for the sake of glory. Doubtless few if any of his contemporaries would have agreed with Cato that a reputation for moral excellence was more glorious than a triumph. Still, it was worth having, and in 51–50 not only Cicero but the other governors of the east were striving for approval in Cato's terms.

¹⁵¹ Dio 39.22.4: σπανιώτερον τὸ τῶν χρημάτων καταφρονεῖν τινα τοῦ τῶν πολεμίων κρατεῖν.

¹⁵² Tyrrell and Purser 1904, 157–8; Shackleton Bailey 1977, 1.448, citing Xen. *Ages.* 8.8 and *Liv.* 30.14.7.

¹⁵³ Cf. *Plut. Cat. Min.* 45.2 for Cato's claim to have brought more money from Cyprus, without a single horse or soldier, than Pompey from all his wars and triumphs.

¹⁵⁴ *Cic. fam.* 15.4.15 SB 110: *in omnibus saeculis pauciores viri reperti sunt qui suas cupiditates quam qui hostium copias vincerent.*

¹⁵⁵ *Val. Max.* 4.1.14. The nature of the proposed honour is disputed; see Brennan 2000, 429, with further references.

¹⁵⁶ According to Plutarch (*Cat. Min.* 39.3), it was the treasure that prompted the proposal of special honours (cf. *Vell.* 2.45.5; *Val. Max.* 8.15.10); however, *Cic. dom.* 23 confirms that Cato was praised for the virtue he displayed in Cyprus even before his return to Rome.

As entrenched as the idea of military glory was in the Roman mind, developments under the principate show that value systems could change. McDonnell writes that the monopolization of military glory and martial *virtus* by the imperial household led to the development of a new, ethically grounded, standard of *virtus*, of which Cato was the epitome.¹⁵⁷ Habinek argues that *gloria* was redefined as ‘the reward for ethical virtue’, but nonetheless retained the competitive aspect of republican *gloria*.¹⁵⁸ Similarly, triumphal insignia came to be awarded for non-military achievements, such as the construction of a canal or silver mines,¹⁵⁹ and Morford goes so far as to suggest that the bizarre ‘triumph’ Nero celebrated following his artistic tour of Greece was an attempt ‘to raise success in non-military ventures to parity in public esteem with military success’.¹⁶⁰ Viewed in this light, Cato’s efforts in the 50s to promote a new model of glory seem less unrealistic.

As we have seen, Cato was not alone. Not only in the letters to Cato but elsewhere in Cicero’s Cilician correspondence we find glory closely associated with ethical governance: Cicero speaks of his *gloria* due to *iustitia* and *abstinentia* (Att. 5.17.5 SB 110) and expected his moral excellence to be talked about at Rome. His neighbours, too, were cultivating reputations for upright administration. Thermus’ *integritas* and *clementia* enhanced his *dignitas* (fam. 2.18.1 SB 115); his manner of administering justice was *clarus* and a source of *laus* (fam. 13.55.2 SB 129). Both Thermus and Silius were praised (*laudari*) for governing *honeste* (Att. 6.1.13 SB 115), and Cicero describes the province of Asia as a theatre for *gloria*, probably in its ‘true’ sense of glory for moral virtue, in which Ti. Claudius Nero could display his *abstinentia* (fam. 13.64.2 SB 138).

Cicero also seems to be promoting this model of glory in *De Legibus*, a work contemporary with his appointment as governor of Cilicia.¹⁶¹ Cicero’s laws prescribe as follows:

¹⁵⁷ McDonnell 2006, 383–4. Cf. e.g. Griffin 1986, 67–8 and 1986a, 197, arguing that the monopolization of traditional forms of glory helped to popularize Stoicism and Stoic suicide.

¹⁵⁸ Habinek 2000, 271–4. He does not consider the influence of Stoicism on the evolving nature of *gloria*.

¹⁵⁹ Tac. ann. 11.20, under Claudius. This goes beyond the traditional award of the *ovatio* for victories which were bloodless, on account of a quick surrender (Gell. 5.6.21). Interestingly, Plut. Marc. 22.2–3 suggests that the ‘unwarlike’ (*ἀπόλεμος*) ovation might be considered superior to a regular triumph; Roman authors, by contrast, regard the ovation as a lesser triumph or consolation prize (e.g. Plin. NH 15.19; Liv. 26.21.1–6).

¹⁶⁰ Morford 1985, 2026; Suet. Ner. 25.1–2; Dio 62.20. Cf. Beard 2007, 270.

¹⁶¹ Dyck 2004, 5–7. He concludes that Cicero probably wrote *De Legibus* largely alongside *De Republica*, but continued thinking about it, and perhaps even working on it, while in Cilicia. Caelius, at least, expected that Cicero would have time for literary work while in his province (Cael. fam. 8.3.3 SB 79, c.13 June 51). The dramatic date of *De Legibus* must fall between Clodius’ death in 52 and Cicero’s departure for his province in 51 (Dyck 2004, 22–3).

Imperia potestates legationes, cum senatus creverit populusve iusserit, ex urbe exeunto, duella iusta iuste gerunto, sociis parcunto, se et suos continente, populi sui gloriam augento, domum cum laude redeunto. (Cic. *leg.* 3.9)

Let military commanders, officials, and embassies leave the city when the senate shall have so decreed or the people ordered; let them wage just wars justly; let them spare the allies; let them restrain themselves and their men; let them increase the glory of their people; let them return home with renown.

Cicero's commentary adds that 'nothing besides renown (*laus*) should be brought back by good and upright men either from enemies or from allies',¹⁶² and other remarks show that, in his ideal state, magistrates have nothing to gain from service abroad besides praise for ethical conduct. Indeed, says Cicero, 'if they obey these laws, nothing will be . . . more onerous and irksome for these men than a province.'¹⁶³ His position on triumphs is not clear, but it is worth noting that *triumphus/triumpho* does not occur in the extant parts of the work, and Cicero elsewhere indicates that he considered triumph-seeking incompatible with the values of *De Republica*, to which *De Legibus* was intended as a companion piece.¹⁶⁴ At the same time, Cicero places a legal obligation on the senatorial order to set an example for others, above all of *continentia*;¹⁶⁵ this obligation falls particularly on a few leading men who possess the *honor et gloria* necessary to influence the morals of the state (*leg.* 3.32). In other words, glory should be arrived at by virtue, and helps to cultivate virtue in others.

Naturally, the concept of glory in *De Legibus* corresponds to that in *De Republica*, which, as we have seen, was closely similar to Cato's. But it is possible that Cicero's attempt to glorify ethical conduct, specifically ethical conduct in the provinces, was directly influenced by Cato. Cicero praises Cato

¹⁶² Cic. *leg.* 3.18: *nihil enim praeter laudem bonis atque innocentibus neque ex hostibus neque a sociis reportandum*. (Lintott 1999, 229 n. 59 infers from this that generals were prohibited from taking spoils, but see Dyck 2004, 465.) Val. Max. 4.3.9 ascribes the same attitude to Q. Fabius Gurgus, N. Fabius Pictor, and Q. Ogulnius, sent as envoys to Ptolemy Philadelphus in 273.

¹⁶³ Cic. *leg.* 3.19: *si parebunt his legibus, nihil erit eis . . . laboriosius molestiusque provincia*. Cf. 18–19.

¹⁶⁴ Cic. *Att.* 7.3.2 SB 126. Cicero specifically mentions book 6, which raises the question of whether triumphs are to be rejected along with other forms of earthly glory (see above on *rep.* 6.20–5). On the relationship between *De Republica* and *De Legibus*, see e.g. Cic. *leg.* 1.15, 2.14; Dyck 2004, 7–12.

¹⁶⁵ Cic. *leg.* 3.30: '*Ceteris specimen esto*': *quod si tenemus, omnia <tenemus>*. *Ut enim cupiditatibus principum et vitiis infici solet tota civitas, sic emendari et corrigi continentia*. ('Let it be a model for the others': if we uphold this, we uphold everything. For, just as the whole state is wont to be corrupted by the desires and vices of the leading men, so it is improved and corrected by their restraint.') Cf. 3.10, 30–2. The use of L. Lucullus as a negative example (*leg.* 3.30–1) is surprising if, as I am suggesting, *De Legibus* was intended to honour Cato or at least win his approval. But Cato surely did not approve Lucullus' *luxuria*; indeed, when he became guardian to Lucullus' son, he sold off the father's beloved fish and was praised for his *severitas* (Varr. *RR* 3.2.17; Coll. *RR* 8.16.5).

in the work,¹⁶⁶ and aspects of Cicero's 'constitution' echo Cato's ideas. In particular, Cicero proposes that the censors should fill the role of Greek *nomophylakes* ('guardians of the law'), a role which Cato had taken upon himself unofficially, while the introduction of *euthynai* recalls the 'silent process' Cato proposed in 54.¹⁶⁷ In addition, Cicero's rule that a senator should 'have a grasp of public affairs' (*causas populi teneto*, 3.41) is explicitly extended to provincial affairs, and his exposition of what this entails resembles Plutarch's description of Cato's preparation for public life (*Cat. Min.* 19.2), while 'Atticus' comment on ignorant magistrates at the mercy of their clerks evokes Cato's battle with the treasury scribes.¹⁶⁸ Finally, Cicero's discussion of the use of auspices for purposes of political obstruction endorses tactics used by Cato and friends during the 50s.¹⁶⁹

In view of these parallels, when Cicero says he has celebrated Cato's virtue in all his speeches and literary work, it is possible he includes the unfinished *De Legibus*.¹⁷⁰ Such admiration might include not only direct praise of Cato but also the endorsement or adaptation of his ideas. As scholars have noted, Cicero's rules on provincial commands seem to reflect the reforms of 52.¹⁷¹ The ethical emphasis of the work likewise reflects Cato's policy. I suggest, therefore, that Cicero in *De Legibus* is taking up, or at least responding to, Cato's call for fairer provincial governance. Both Cicero and Cato were pursuing ethical change not only by setting an example but by rewriting the very definition of glory.

The idea of prestige or repute due to ethical governance was not new in 51–50. What is novel is the elevation of that prestige to a form of glory founded on moral virtue and explicitly distinguished from traditional military *gloria*.¹⁷² This opposition between 'true glory' (or *maiestas*) and military

¹⁶⁶ Cic. *leg.* 3.41 commends Cato's filibustering, in contrast with Cicero's earlier pronouncements (e.g. *Att.* 1.18.7 SB 18) and his prescription that senators should speak at moderate length (*leg.* 3.11).

¹⁶⁷ *Nomophylakes*: Cic. *leg.* 3.46; Plut. *Cat. Min.* 17.3, 18.5. *Euthynai*: Cic. *leg.* 3.47; Morrell 2014, 670–1 with n. 19.

¹⁶⁸ Cic. *leg.* 3.48; Plut. *Cat. Min.* 16.2. Cf. Nicolet 1991, 124–5.

¹⁶⁹ Cic. *leg.* 2.20–1, 31–3; 3.27, 43. Compare e.g. Suet. *Iul.* 20.1 (Bibulus); Plut. *Cat. Min.* 43.4 (Cato); Dio 39.39.6 (C. Ateius Capito).

¹⁷⁰ Cic. *fam.* 15.4.12 SB 110. *De Legibus* is both fragmentary and unfinished; possibly the complete work would have contained further Catonian elements, for instance in the book on *iudicia* (see *leg.* 3.47).

¹⁷¹ See Lehmann 1980, 8–10; Dyck 2004, 6, 464. By breaking the automatic sequence between urban magistracy and provincial command, and placing control over appointments in the hands of senate and people (*leg.* 3.9), Cicero mirrors the effect of the *lex Pompeia de provinciis*, which was probably passed during the composition of *De Legibus*.

¹⁷² Again the closest parallel is Valerius Maximus' chapter *De maiestate*: twice an individual's *maiestas* is explicitly likened to a triumph (2.10.3, 6), and ultimately moral virtue is judged superior, in the person of Cato (2.10.8). It is also worth noting that most of the *exempla* concern respect shown to Romans by foreigners (2.10.2–6). It seems that, in Valerius' eyes, these men's *maiestas* derived in large measure from the ethical treatment of foreigners. Compare, however,

distinction contrasts sharply with the normal Roman concept of the 'glorious triumph'.¹⁷³ At the same time, the line was blurred between foreigners and citizens. In Cato's letter, the beneficiaries of Cicero's virtue (the source of his *maiestas*) are *socii et res publica* (*fam.* 15.5.3 SB 111). Cicero's works of the 50s link citizens and allies in similar ways.¹⁷⁴ The root of true glory, as Seneca puts it, is good deeds towards *omnes*, all human beings.¹⁷⁵ In other words, the redefinition of glory was bound up with Stoic cosmopolitanism.

CONCLUSIONS

I have argued that Cato, in 51–50, was actively working to redefine the nature of glory so as to promote a new policy of ethical governance. This was not simply a philosophical exercise. The standards Cato urged found expression in dispatches and senate speeches, and seem to have made a real impact on Cicero and his fellow governors. Cato's model of 'true glory' also furthered the very practical objective of securing the eastern provinces, insofar as it encouraged ethical governance. In Stoic terms, then, the *honestum* and the *utile* were identical. At the same time, Cato proposed a twenty-day *supplicatio* for Bibulus and presumably would have supported a triumph; thus we see Cato working within the system he hoped to reform. Cato's aim, after all, was not to abolish triumphs, but to prevent unnecessary wars. His methods illustrate both his flexibility as a politician and his ability, as Cicero put it, to bring philosophy into the forum and virtually onto the battlefield (*fam.* 15.4.16 SB 110).

Once again we see parallels with Pompey. Pompey's eastern campaigns and his third triumph promoted and, to a great extent, enacted an ideal that privileged moral even above military excellence. Indeed, according to Cicero (*Sest.* 58), Pompey thought it no less glorious (*nec minus... gloriosum*) for himself and for the empire that he had restored Tigranes to his throne rather than placing him in chains. The notion that clemency could be as glorious as conquest resonates with the model of true glory explored by Cato and Cicero

Val. Max. 2.8.1, where the *gloria* of a triumph is directly related to the number killed; this passage seems to reflect a different, more conventional, tradition.

¹⁷³ In Cicero's speeches glory and triumphs are virtually synonymous; indeed, in *Pis.* 57 Cicero explicitly classes the triumph among the forms of *iusta gloria*, as distinct from *ficta gloria*. Cf. e.g. *Pis.* 59; *prov. cons.* 29; *Cat.* 3.26; *Cael. fam.* 8.5.1 SB 83; *Sall. Jug.* 114.3; *Liv.* 6.16.5.

¹⁷⁴ e.g. *rep.* 1.3 makes the interests of the whole *genus humanum* the object of the statesman's efforts and *leg.* 3.41 defines *res publica* to include provincial affairs. For political reasons, Cicero's discussions of true glory from the 40s tend to focus on Rome (see Griffin 2011, 319).

¹⁷⁵ *Sen. ep.* 102.18: *Meum [sc. bonum est claritas], qui laudor; quia natura me amantem omnium genuit...* ('Claritas is my good, in that I am praised; because nature bore me as a lover of all...'). Cf. Newman 1988, 150 for a more elaborate theory on the relationship between *virtus*, glory, and Stoic *oikeiōsis*.

in 51–50. How far Pompey was involved in promoting ‘Cato’s policy’, we cannot know, but one passage is suggestive. In November 50, Cicero wrote that he was delighted to hear Atticus’ report of a conversation with Pompey ‘about public affairs, the opinion [Pompey] has of my *integritas*, and the good will he showed in what he said about the triumph’.¹⁷⁶ The reference to Cicero’s *integritas* suggests that Cicero looked to Pompey much as he did to Cato, as an arbiter of propriety in provincial governance.¹⁷⁷ Moreover, the linking of Cicero’s *integritas* with his suit for a triumph might suggest that Pompey saw a link between the two.¹⁷⁸ Unlike Cato, it seems Pompey was prepared to support a triumph for Cicero’s largely ethical achievements. In general, however, they were pursuing the same ends.

¹⁷⁶ Cic. Att. 7.2.5 SB 125: *de re publica, de opinione quam is vir haberet integritatis meae, de benevolentia quam ostendit eo sermone quem habuit de triumpho*.

¹⁷⁷ In fact, before setting out for Cilicia, Cicero spent several days with Pompey and sought his advice on the business of governing a province (Cic. Att. 5.6.1 SB 99).

¹⁷⁸ Cicero goes on to note that Cato paid testimony to his virtue while refusing to support a *supplicatio* (Att. 7.2.7 SB 125).

Conclusion

Among the laws of his ideal state, Cicero prescribes that magistrates in the provinces should wage wars justly, spare the allies, and restrain themselves and their subordinates (*leg.* 3.9). Unfortunately most of Cicero's commentary on these lines is lost, but one fragment survives: 'How will he be able to protect the allies, if he cannot distinguish between useful and useless things?' (*Qui poterit socios tueri, si dilectum rerum utilium et inutilium non habebit?*)¹

Socios tueri—'to protect the allies'—might have been the motto of the provincial reform project of the late 50s. Familiar from Livy in a military sense, the idea of protecting the allies acquired a strongly moral dimension in the 50s. Romans were protecting their allies not only from the threat of enemy arms but from the injustices of *Roman* rule. That is the sense the phrase bears both in *De Legibus* and in Cicero's letter to Cato of 51, where he proclaims that he has protected the allies by his *aequitas* and *continentia*.² Both these passages, I have argued, reflect a reform programme ushered in by the *lex Pompeia de provinciis* and Cato's policy of fair provincial administration. They also have strongly Stoic overtones,³ so that the reform project of 52–50 can be seen as completing the 'philosophization' of Roman thinking about empire that had been in progress since the second century. Above all, such statements—however imperfectly realized—show that some influential Romans did care about the welfare of their allies.

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¹ Cic. *leg.* 3 fr. 1 Powell. The fragment clearly formed part of Cicero's commentary on *sociis parcunto* at 3.9 (cf. Dyck 2004, 556).

² Cic. *fam.* 15.4.1 SB 110: *qua aequitate et continentia tuerer socios*.

³ Cic. *leg.* 3 fr. 1 Powell recalls the distinctly Stoic passage from book 1 where Cicero describes how the wise man, having perceived that he is a citizen of the cosmopolis (61) and born for public life, will use the power of oratory to censure bad persons and protect the good (*tueatur bonos*), in accordance with the teachings of philosophy (62). The fragment is also strikingly similar to Posidonius on the Golden Age (ap. Sen. *ep.* 90.5), when wise kings restrained their hands, 'protected the weaker from the stronger' (*infirmiorem a validioribus tuebantur*), and 'indicated what was useful and not useful' (*utilia atque inutilia monstrabant*). Cicero probably used Posidonius for *leg.* 1 and elsewhere (see e.g. Dyck 2004, 50–1), though he is not among the named sources of book 3 (Cic. *leg.* 3.13–14).

The years 70–50 witnessed a large number and variety of reform efforts, from legislation to show trials and role-modelling, the pageantry of Pompey's triumph, and Cato's unorthodox tactics as *praetor repetundis*. Pompey's first consulship in 70 offers the first example we have of a coherent programme of provincial reform. As consul-elect, Pompey had promised to clean up the courts and the administration of the provinces. Verres' trial and the published *Verrines* formed part of his solution, along with the election of censors and a push for better prosecutors. That programme continued, in a sense, through laws passed by the tribunes of 67 and through Pompey's eastern commands. In his campaigns against the pirates and Mithridates, Pompey practised a new model of humane imperialism and established himself as an example for others. Cato did the same in Cyprus, on a smaller scale. In both cases we see principles of moral philosophy given practical effect. Meanwhile, a new extortion law was passed which, though it bore Caesar's name, also bore the imprint of both Pompey and Cato, and subsequently Cato supported Pompey's attempt to extend the law to equestrian officials.

The push for reform gained momentum in 53. Carrhae provided the catalyst, but the principles involved were those long practised by Pompey and Cato. Their cooperation in 52 at last provided the conditions for large-scale reform. The joint project of 52–50 drew on elements of previous efforts, but the product was more sophisticated than anything that had come before. The possibilities of the *lex repetundarum* had been exhausted. Criminal penalties had repeatedly failed to control corruption in Rome or in the provinces. Instead, the *lex Pompeia* addressed the structures that made provincial extortion possible and profitable. Rome and the provinces were treated as a unit, with benefits to both. Moreover, legislative change was combined with a concerted effort to transform not only the ethos of provincial government but the very nature of glory.

When civil war came in 49, attention turned from garnering good will to gathering resources. The provinces paid heavily, though Cato, at least, did not give up his ethical concerns, and did what he could for Sicily and Utica. But the *lex Pompeia* was swept away, and replaced in 46 with Caesar's different system. The brief lifespan of the law means we cannot really assess how effective it might have been, though in 51–50 the signs were promising. It says much, however, that Augustus chose the *lex Pompeia*, rather than the law of his adoptive father, as the basis of appointments to the public provinces,⁴ while the use of *legati pro praetore* in imperial provinces took up another

⁴ Suet. *Aug.* 36; Dio 53.14.2. The public provinces were the peaceful provinces which have been the primary focus of this study and which traditionally represented 'easy pickings' for corrupt governors (Strab. 17.3.25).

Pompeian precedent.⁵ The principle of separation of *imperia* remained in place throughout the principate and indeed was extended by other enactments.⁶ Corruption was not eliminated, but no new solutions were found. The *lex Julia* of 59 remained the operative extortion law, though modified in various ways. Augustus also adopted the use of exemplarity, even copying out *praecepta et exempla* and posting them to governors in the provinces (Suet. *Aug.* 89.2). We do not know which *exempla* he chose but, if Valerius Maximus is any guide, they might well have included Cato.⁷ In short, not only were the intentions of the principate little different from those of the republic, as Brunt noted (1961, 190), but the actual solutions that were adopted owed much to republican reformers.

Other problems remained unsolved when civil war came. Moves to subject *equites* to penalties for extortion in the provinces, or for bribe-taking as jurors, failed for political reasons. Reform awaited the very different dynamic between the *princeps* and a repositioned equestrian order. Unaccountable equestrians (that is, *equites Romani* and *tribuni aerarii*) retained their majority in the courts, with the result that some governors, Cicero among them, hesitated to apply the principles of the reform project to their fullest extent. The notorious *publicani* also remained in place, even if better controlled, and moneylending continued in provinces and client kingdoms, though there was at least action to limit interest rates.

Yet the efforts that were made raise the question: what might have been achieved eventually, if not for civil war? To take the problem of the courts, for example, Pompey's judiciary measures of 55 and 52, though they did not disturb the tripartite division, made jurors increasingly elite. Conceivably this represented the beginning of a shift away from the equestrian dominance of the courts and back towards trial by peers. Again, later developments may hint at the way the tide was turning. Caesar removed the *tribuni aerarii* and divided the courts equally between senators and *equites*.⁸ Under Antony and Augustus, jurors of lower census rating were included, but heard only small claims.⁹ Like Pompey in 52, the *princeps* himself selected the *album*.¹⁰ Increasingly, however, the functions of the *quaestio repetundarum* were absorbed by the senate. At least as early as AD 12 we find the senate sitting as a court in

⁵ See e.g. Lintott 1999, 115; Brennan 2000, 637. If Reynolds (1962, 99–100) is correct in restoring *legatus pro praetore Cn. Pompeii Magni imperatoris* in an inscription from Cyrene, it appears that Pompey's legates provided a model not only for Augustan practice but also Augustan titlature.

⁶ Paul. *sent.* Leiden fr. §5; Dio 60.25.5.

⁷ e.g. Val. Max. 4.1.14, 4.3.2. According to Macrobius (*Sat.* 2.4.18), Augustus professed to admire Cato's constitutionalism, and one of his favourite sayings invoked Cato (Suet. *Aug.* 87.1; Wardle 2014, 490). He also wrote a reply to Brutus' Cato (Suet. *Aug.* 85.1).

⁸ Suet. *Iul.* 41.2; Dio 43.25.1–2.

⁹ Suet. *Aug.* 32.3; Plin. *NH* 29.18; Brunt 1988, 231; Ramsey 2005, 35–6.

¹⁰ Suet. *Aug.* 29.3, 32.3; *Tib.* 41, 51.1; Brunt 1988, 231.

extortion trials, while non-capital claims had been handled by small panels of senators from 4 BC.¹¹ By the 20s, the *quaestio repetundarum* was practically defunct, though not abolished.¹² In other words, the long tug of war over the extortion court was resolved, early in the principate, in favour of senatorial jurisdiction.

As for the *publicani*, it was Julius Caesar, and not the protagonists of this study, who reformed the taxation of Asia (though I have suggested that Caesar may have been influenced by P. Servilius Isauricus, a former associate of Cato). Yet *publicani* remained, collecting a wide variety of 'indirect' taxes. In the principate as in the republic, the tax-farming system, with its attendant evils, apparently was seen as a *sine qua non* of revenue collection.¹³

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Recognizing the reform effort of 52–50 has implications for broader questions about the republican system of government and the very viability of the Roman republic. Scholars since Machiavelli have attributed the fall of the republic to its inability to respond to the challenges created by imperial expansion.¹⁴ Yet, many of the challenges usually identified (the rise of corruption and powerful generals, the loss of moral character and senatorial authority) were problems the *lex Pompeia* sought to address, and might have done much to correct, but for the outbreak of civil war. Of course, 'might haves' do not tell us very much. What my study *does* show is that the republic and its leaders were capable of identifying systemic problems and devising real solutions.¹⁵ A law such as the *lex Pompeia* represents a serious challenge to Meier's thesis (1980) of a 'Krise ohne Alternative' in that, rather than treating the symptoms of a problem (corrupt governors and electoral bribery, for instance) with 'band-aid' responses (prescriptive rules and criminal penalties), it addressed the causes, by transforming the operation of the *cursus honorum* and the nature of provincial command. The broader reform programme shows further evidence of holistic thinking, in attempting to recalibrate not only the ethos of provincial government but the aspirations of an aristocratic career. These changes would also have helped to address the problem of powerful proconsuls, in that the law placed promagistrates under stricter senatorial control, and reduced the need for dangerous 'extraordinary commands' by making the regular system more responsive to local conditions

¹¹ See e.g. Galsterer 1996, 208–9 n. 41.

¹² See e.g. Talbert 1996, 333–4; Bauman 1999, 89. Bauman holds that the *quaestio* heard cases against non-senatorial defendants.

¹³ See Brunt 1990, ch. 17.

¹⁴ Some of the many permutations of this theory are surveyed by Morstein-Marx and Rosenstein (2006, esp. 629–31). Two of the more influential variants are Meier (1980) and Brunt (1988, ch. 1); a notable exception is Gruen (1974), who maintains that civil war brought down the republic. Cf. e.g. Deininger (1980) and Hölkeskamp (2009), with further bibliography.

¹⁵ *Contra* e.g. Meier 1980, 144 and *passim*.

and emergencies. This holistic approach would be significant whether the solution worked or not, but is all the more noteworthy because the system introduced by the *lex Pompeia* became an important model for the man usually identified as the reformer (Augustus).

This study also sheds light on processes of reform in the Roman republic. First, it shows that republican leaders were capable of devising and implementing long-term policies or programmes. The *lex Pompeia* had its roots in a *senatus consultum* of the previous year and perhaps earlier still, in the decree of 54. Some of its elements had precedents in other measures (Cato's proposal on the praetors of 55, Pompey's extraordinary commands) and, more generally, in Pompey and Cato's long-term interest in improving provincial governance. Thus Pompey's law of 52 marked the denouement of a reform process in train for some years beforehand. Furthermore, by linking legislative change with an ongoing programme of ethical reform, that process continued beyond the passage of Pompey's *lex*.

Secondly, the reform efforts examined here demonstrate the potential for issues-based cooperation, even between political opponents. Thus, in 55, Cato could both oppose the *lex Trebonia* and support Pompey's attempt to subject equestrians to the penalties of the extortion law. Plutarch's claim that Cato did not let personal enmity dictate his political dealings, but acted at all times for the common good, is borne out by Cato's conduct in such instances.¹⁶ In fact, the reform efforts described here were not, on the whole, politically contentious. We do find political friction associated with particular military commands, trials, and related issues such as judicial reform, but Caesar's extortion law, almost alone of his legislation in 59, was not opposed even by Cato, and Caesar seems to have approved the *lex Pompeia* of 52 until it was used against him in 49. In other words, provincial reform could happen either through or despite pre-existing political constellations.

How far the Roman people were interested in this project is less clear. Cicero's account of Pompey's *contio* in 71 alleges popular fervour for provincial reform, and no doubt the crowd assembled on that day did cheer heartily (Cic. *Verr.* 1.45). But there are also signs of ambivalence towards Pompey's handling of the pirates and Tigranes—and much enthusiasm for Caesar's brutal conquest of Gaul. As C. Gracchus had argued c.123, concessions to foreigners represented a missed opportunity to increase the revenues of the Roman people (Gell. 11.10.3–4). It is partly for this reason that we find ethical arguments coupled with arguments from self-interest, as in the *Verrines* or *Pro Lege Manilia*, or even (as in the debate over Ptolemy Auletes, or Cato's proposal to extradite Caesar) the sanctions of religion.

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¹⁶ Plut. *mor.* 809d–e; cf. *Cat. Min.* 30.4.

Reassessing Roman provincial governance has entailed reassessing the politics of the 50s, above all the figures of Pompey and Cato. Cato emerges not only as a flexible politician but as one of the more inventive reformers of the late republic. Pompey, too, appears as a thoughtful reformer, motivated not solely by desire for glory but by a genuine interest in good governance. It will be worth revisiting other aspects of their careers in this light in future scholarship. Of course, neither was perfect. It is hard to deny that Cato's reluctance to compromise at times did more harm than good. Pompey was *too* willing to compromise, particularly in granting favours to friends, and above all to Caesar. But these limitations should not prevent us from recognizing each man's considerable achievements.

The two also had more in common than is generally recognized; perhaps more than they themselves recognized. According to Plutarch, Cato contrasted his own peaceful administration of Cyprus with Pompey's wars and triumphs, but the similarities between their attitudes to empire are more striking than the differences.¹⁷ Both strove to protect provincials, both preferred bloodless solutions, and both, I have argued, were influenced by ethical principles drawn from Stoic philosophy. Pompey, of course, could hardly be said to disdain triumphs, but he shared Cato's appreciation of moral excellence as an end in itself. According to Cicero, Pompey considered it no less glorious to have restored Tigranes to his throne rather than put him in chains (Cic. *Sest.* 58)—an attitude hardly universal among his contemporaries. But by triumphing over the absent Tigranes, and making that triumph a pageant of *humanitas*, Pompey could 'have his cake and eat it'.

With all this in mind, it is worth taking a fresh look at earlier relations between Pompey and Cato. The marriage alliance Pompey proposed on his return from the east can be seen not as a ludicrous ploy, as Plutarch has it (*Cat. Min.* 30), but as a real attempt to forge a new political alignment, the more plausible in view of the two men's cordial meeting in the east a few years earlier.¹⁸ I suspect that Cato's dismissive response, and his antagonism generally towards Pompey in the 60s, had more to do with loyalty to Lucullus than with Pompey himself.¹⁹ Cato showed himself more willing to collaborate with Pompey after Lucullus' death.²⁰ By then, however, Cato's opposition had

¹⁷ Plut. *Cat. Min.* 45.2. In fact Cato's main criticism was that Pompey had lent legions to Caesar.

¹⁸ Plut. *Cat. Min.* 14.1–3. Pompey's divorce from Mucia suggests he was distancing himself from Metellus Nepos' actions as tribune: Tatum 1998, 462. It is no coincidence, surely, that Pompey proceeded to seek a marriage alliance with Nepos' arch-opponent.

¹⁹ Cf. Plut. *Cat. Min.* 45.3, who has Cato say that he refused a marriage alliance with Pompey not because he considered Pompey unworthy (*οὐκ ἀνάξιον ἡγούμενος*) but because he saw their difference in *πολιτεία*.

²⁰ In December 57 or January 56: Bennett 1972.

driven Pompey to alliance with Caesar. The potential for cooperation, apparently recognized by Pompey ten years earlier, was not realized until 52.

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Thinking about provincial reform invites thinking about wider reform ambitions at the end of the 50s. The *lex Pompeia de provinciis* was part of a broader legislative programme enacted by Pompey in 52 when the whole state was entrusted to his care. The laws *de provinciis*, *de ambitu*, and *de iure magistratuum* worked together for the benefit of both Rome and the provinces.²¹ It is impossible to determine what other reforms might have been passed or proposed, but Cicero's *De Legibus* and the Pseudo-Sallustian 'letter to Caesar' suggest that reform was in the air. *De Legibus*, as we have seen, reflects the provincial reform project of 52–50 and a strong streak of Catonian thought. We might ask how far other aspects of the work, such as the enlarged responsibilities of the censors (*leg.* 3.46–7), reflect ideas mooted in this period. It is an intriguing possibility that Pompey's 'divine third consulship'²² might have been seen as an opportunity to realize something like 'Cato's republic'. What is clear is that Pompey, Cato, Cicero, and their contemporaries did not regard their republic as moribund, let alone already fallen, and were taking steps to secure it.²³

²¹ The *lex de iure magistratuum* seems to have incorporated existing rules on office-holding. There may be truth in Isidore's testimony (*etym.* 5.1.5) that Pompey planned to codify the *leges*.

²² Cic. *Att.* 7.1.4 SB 124: *divino tertio consulatu*.

²³ *Contra* Flower (2010, 149), who pronounces that the 50s 'no longer belong to a period of republican history'. She sees Pompey's third consulship as a missed opportunity to restore republican politics (151–2).

Bibliography

- Adcock, F. E. (1932) 'Caesar's dictatorship', in S. A. Cook, F. E. Adcock, and M. P. Charlesworth (eds) *Cambridge Ancient History*, 1st edn, vol. 9, 691–740.
- Afzelius, A. (1941) 'Die politische Bedeutung des jüngerer Cato', *C&M* 4, 100–203.
- Ager, S. L. (2009) 'Roman perspectives on Greek diplomacy', in C. Eilers (ed.) *Diplomats and Diplomacy in the Roman World*, Leiden, 15–43.
- Alexander, M. C. (1982) 'Repetition of prosecution, and the scope of prosecutions, in the standing criminal courts of the Late Republic', *CA* 1, 141–66.
- Alexander, M. C. (1990) *Trials in the Late Roman Republic, 149 BC to 50 BC*, Toronto.
- Alexander, M. C. (2002) *The Case for the Prosecution in the Ciceronian Era*, Ann Arbor.
- Alföldy, G. (1977) *Konsulat und Senatorenstand*, Bonn.
- Ameling, W. (1989) 'Lucius Licinius in Chios', *ZPE* 77, 98–100.
- Anderson, W. S. (1963) *Pompey, His Friends, and the Literature of the First Century B.C.*, Berkeley.
- Andreau, J. (1999) *Banking and Business in the Roman World*, trans. J. Lloyd, Cambridge.
- Arena, V. (2012) *Libertas and the Practice of Politics in the Late Roman Republic*, Cambridge.
- Asmis, E. (2005) 'A new kind of model: Cicero's Roman constitution in *De Republica*', *AJPh* 126, 377–416.
- Astin, A. E. (1957) 'The Lex Annalis before Sulla' (part 1), *Latomus* 16, 588–613.
- Astin, A. E. (1958) 'The Lex Annalis before Sulla' (part 2), *Latomus* 17, 49–64.
- Astin, A. E. (1967) *Scipio Aemilianus*, Oxford.
- Astin, A. E. (1978) *Cato the Censor*, Oxford.
- Astin, A. E. (1985) 'Cicero and the censorship', *CP* 80, 233–9.
- Astin, A. E. (1988) 'Livy's report of the *lectio senatus* and the *recognitio equitum* in the censorship of 169–8 B.C.', *Historia* 37, 487–90.
- Astin, A. E. (1988) 'Regimen morum', *JRS* 78, 14–34.
- Austin, R. G. (1960) *Cicero. Pro M. Caelio Oratio*, 3rd edn, Oxford.
- Ayer, K. (2010) '"The ways of the ancestors": performing the Roman ideal', *Ancient History: Resources for Teachers* 40, 180–94.
- Badian, E. (1956) 'Q. Mucius Scaevola and the province of Asia', *Athenaeum* 34, 104–23.
- Badian, E. (1958) *Foreign Clientelae*, Oxford.
- Badian, E. (1959) 'The early career of A. Gabinius (cos. 58 B.C.)', *Philologus* 103, 87–99.
- Badian, E. (1965) 'M. Porcius Cato and the annexation and early administration of Cyprus', *JRS* 55, 110–21.
- Badian, E. (1967) 'The testament of Ptolemy Alexander', *RhM* 110, 178–92.
- Badian, E. (1968) *Roman Imperialism in the Late Republic*, 2nd edn, Oxford.
- Badian, E. (1970) *Lucius Sulla. The Deadly Reformer*, Sydney.
- Badian, E. (1972) *Publicans and Sinners*, Oxford.

- Balsdon, J. P. V. D. (1938) 'The history of the extortion court at Rome, 123–70 B.C.', *PBSR* 14, 98–114.
- Balsdon, J. P. V. D. (1939) 'Consular provinces under the late Republic. I. General considerations', *JRS* 29, 57–73.
- Balsdon, J. P. V. D. (1954) '*Supplicationes*' (review of Halkin, *La supplication d'action de grâces chez les Romains*), *CR* 4, 281–2.
- Balsdon, J. P. V. D. (1962) 'Roman history, 65–50 B.C.: five problems', *JRS* 52, 134–41.
- Baraz, Y. (2012) *A Written Republic. Cicero's Philosophical Politics*, Princeton.
- Bauman, R. A. (1967) *The Crimen Maiestatis in the Roman Republic and Augustan Principate*, Johannesburg.
- Bauman, R. A. (1983) *Lawyers in Roman Republican Politics*, Munich.
- Bauman, R. A. (1985) *Lawyers in Roman Transitional Politics*, Munich.
- Bauman, R. A. (1999) *Human Rights in Ancient Rome*, London.
- Baynham, E. (2001) 'Alexander and the Amazons', *CQ* 51, 115–26.
- Beard, M. (2007) *The Roman Triumph*, Cambridge MA.
- Beard, M., J. North, and S. Price (1998) *Religions of Rome*, Cambridge.
- Bellemore, J. (1995) 'Cato the Younger in the east in 66 B.C.', *Historia* 44, 376–9.
- Bellinger, A. R. (1949) 'The end of the Seleucids', *Transactions of the Connecticut Academy of Arts and Sciences* 38, 51–102.
- Beness, J. L. (2009) 'Carbo's tribunate of 129 and the associated *dicta Scipionis*', *Phoenix* 63, 60–72.
- Bennett, W. H. (1972) 'The date of the death of Lucullus', *CR* 22, 314.
- Bernhardt, R. (1985) *Polis und römische Herrschaft in der späten Republik (149–31 v. Chr.)*, Berlin.
- Bernstein, F. (1998) *Ludi Publici. Untersuchung zur Entstehung und Entwicklung der öffentlichen Spiele im republikanischen Rom*, Stuttgart.
- Berry, D. H. (1993) 'Pompey's legal knowledge—or lack of it: Cic. *Mil.* 70 and the date of *Pro Milone*', *Historia* 42, 502–4.
- Berry, D. H. (1996) Review of Klodt, *Cicero. Pro Rabirio Postumo*, *JRS* 86, 201–7.
- Berry, D. H. (2003) '*Equester ordo tuus est*: did Cicero win his cases because of his support for the *equites*?', *CQ* 53, 222–34.
- Berthold, R. M. (2009) *Rhodes in the Hellenistic Age*, Ithaca.
- Betts, I., and B. Marshall (2013) 'The *lex Calpurnia* of 149 BC', *Antichthon* 47, 39–60.
- Billen, A. V. (1929) *The Old Latin Texts of the Heptateuch*, Cambridge.
- Billerbeck, M. (1996) 'The ideal Cynic from Epictetus to Julian', in R. Bracht Branham and M.-O. Goulet-Cazé (eds) *The Cynics: The Cynic Movement in Antiquity and Its Legacy*, Berkeley, 205–21.
- Blank, D. (2012) 'Varro and Antiochus', in D. Sedley (ed.) *The Philosophy of Antiochus*, Cambridge, 250–89.
- Bleicken, J. (2004) *Geschichte der römischen Republik*, 6th edn, Munich.
- Bloch, G., and J. Carcopino (1935) *La république romaine de 133 à 44 avant J.-C.*, Paris.
- Bloomer, W. M. (2001) Review of Wardle, *Valerius Maximus*, *JRS* 91, 247–8.
- Bonnefond, M. (1984) 'La *Lex Gabinia* sur les ambassades', in C. Nicolet (ed.) *Des ordres à Rome*, Paris, 61–99.
- Botte, B. (1953) '*Maiestas*', in B. Botte and C. Mohrmann (eds) *L'Ordinaire de la Messe. Texte critique, traduction et études*, Paris.

- Bowersock, G. W. (1970) Review of Sherck, *RDGE*, *AJPh* 91, 223–8.
- Braund, D. C. (1983) 'Gabinus, Caesar, and the *publicani* of Judaea', *Klio* 65, 241–4.
- Braund, D. C. (1984) *Rome and the Friendly King*, London.
- Braund, D. C. (1994) *Georgia in Antiquity*, Oxford.
- Braund, D. C. (1996) 'The politics of Catullus 10: Memmius, Caesar and the Bithynians', *Hermathena* 160, 45–57.
- Braund, D. C. (1996a) *Ruling Roman Britain*, London.
- Braund, S. H. (1992) *Lucan. Civil War*, Oxford.
- Braund, S. H. (2007) *Beyond Anger: A Study of Juvenal's Third Book of Satires*, Cambridge.
- Breglia, L. P. D. (1972) 'La provincia di Cilicia e gli ordinamenti di Pompeo', *RAAN* 47, 327–87.
- Brennan, T. C. (2000) *The Praetorship in the Roman Republic*, Oxford.
- Brennan, T. C. (2004) 'Power and process under the Republican "constitution"', in H. I. Flower (ed.) *The Cambridge Companion to the Roman Republic*, Cambridge, 31–65.
- Broughton, T. R. S. (1934) 'Roman landholding in Asia Minor', *TAPA* 65, 207–39.
- Broughton, T. R. S. (1938) 'Roman Asia Minor', in T. Frank (ed.) *An Economic Survey of Ancient Rome*, vol. 4, Paterson, N.J., 499–916.
- Broughton, T. R. S. (1951–86) *The Magistrates of the Roman Republic*, New York.
- Broughton, T. R. S. (1991) 'Candidates defeated in Roman elections: some ancient Roman "Also-rans"', *TAPA* 81, i–64.
- Brunt, P. A. (1961) 'Charges of maladministration under the early principate', *Historia* 10, 189–227.
- Brunt, P. A. (1971) *Italian Manpower*, Oxford.
- Brunt, P. A. (1980) 'Patronage and politics in the Verrines', *Chiron* 10, 273–89.
- Brunt, P. A. (1988) *The Fall of the Roman Republic and Related Essays*, Oxford.
- Brunt, P. A. (1990) *Roman Imperial Themes*, Oxford.
- Brunt, P. A. (2013) *Studies in Stoicism*, ed. M. Griffin and A. Samuels with the assistance of M. Crawford, Oxford.
- Bucher, G. S. (1995) 'Appian B.C. 2.24 and the trial *de ambitu* of M. Aemilius Scaurus', *Historia* 44, 396–421.
- Burton, G. P. (1975) 'Proconsuls, assizes and the administration of justice under the empire', *JRS* 65, 92–106.
- Butler, S. (2002) *The Hand of Cicero*, London.
- Cairns, F. (2003) 'Catullus in and about Bithynia', in D. Braund and C. Gill (eds) *Myth, History and Culture in Republican Rome*, Exeter, 165–90.
- Cameron, A. (1976) 'Catullus 29', *Hermes* 104, 155–63.
- Canali De Rossi, F. (2000) 'Tre epistole di magistrati romani a città d'Asia', *Epigraphica Anatolica* 32, 163–81.
- Capelle, W. (1932) 'Griechische Ethik und römischer Imperialismus', *Klio* 25, 86–113.
- Churchill, J. B. (1999) 'Ex qua quod vellent facerent: Roman magistrates' authority over *praeda* and *manubiae*', *TAPA* 129, 85–116.
- Cichorius, C. (1906) 'Zur Lebensgeschichte des Valerius Soranus', *Hermes* 41, 59–68.
- Cloud, D. (1992) 'The constitution and public criminal law', in J. A. Crook, A. Lintott, and E. Rawson (eds) *Cambridge Ancient History*, 2nd edn, vol. 9, Cambridge, 491–530.

- Cobban, J. (1935) *Senate and Provinces*, Cambridge.
- Cole, S. (2013) *Cicero and the Rise of Deification at Rome*, Cambridge.
- Colish, M. L. (1985) *The Stoic Tradition from Antiquity to the Early Middle Ages*, Leiden.
- Combès, R. (1966) *Imperator*, Paris.
- Cornell, T. J. (ed.) (2013) *The Fragments of the Roman Historians*, Oxford.
- Cotton, H. M. (1986) 'A note on the organization of tax-farming in Asia Minor', *Latomus* 45, 367–73.
- Cotton, H. M. (1986a) 'The role of Cicero's letters of recommendation: *iustitia vs gratia?*', *Hermes* 114, 443–60.
- Courtney, E. (1993) *The Fragmentary Latin Poets*, Oxford.
- Craig, C. P. (1986) 'Cato's Stoicism and the understanding of Cicero's speech for Murena', *TAPA* 116, 229–39.
- Crawford, J. W. (1984) *M. Tullius Cicero: The Lost and Unpublished Orations*, Göttingen.
- Crawford, J. W. (1994) *M. Tullius Cicero. The Fragmentary Speeches*, Atlanta.
- Crawford, M. H. (1974) *Roman Republican Coinage*, Cambridge.
- Crawford, M. H. (1976) 'Hamlet without the prince', *JRS* 66, 214–17.
- Crawford, M. H. (ed.) (1996) *Roman Statutes*, London.
- Curran, J. (2007) 'The ambitions of Quintus Labienus "Parthicus"', *Antichthon* 41, 33–53.
- Dart, C. J. (2014) *The Social War, 91 to 88 BCE. A History of the Italian Insurgency against the Roman Republic*, Farnham.
- Daubner, F. (2007) 'Die *lex Porcia*, das Ehrendekret für Menippos von Kolophon und die römische Provinzverwaltung der 120er Jahre', *Göttinger Forum für Altertumswissenschaft* 10, 9–20.
- Deininger, J. (1980) 'Explaining the change from republic to principate in Rome', *Comparative Civilizations Review* 4, 77–101.
- de Moura, A. R. (2010) 'Lucan 7: Speeches at war', in N. Hönke and C. Reitz (eds) *Lucan's 'Bellum Civile'. Between Epic Tradition and Aesthetic Innovation*, Berlin, 71–90.
- de Souza, P. (1999) *Piracy in the Graeco-Roman World*, Cambridge.
- de Wet, B. X. (1981) 'Aspects of Plutarch's portrayal of Pompey', *Acta Classica* 24, 119–32.
- Devlin, P. (1991) 'The conscience of the jury', *Law Quarterly Review* 107, 398–404.
- Dragstedt, A. (1969) 'Cato's *politeuma*', *Agon* 3, 69–96.
- Drogula, F. K. (2011) 'The *lex Porcia* and the development of legal restraints on Roman governors', *Chiron* 41, 91–124.
- Drogula, F. K. (2015) *Commanders and Command in the Roman Republic and Early Empire*, Chapel Hill.
- Dueck, D. (2000) *Strabo of Amasia. A Greek Man of Letters in Augustan Rome*, London.
- Duff, T. E. (1996) 'Plutarch's Pompey', *CR* 46, 315–17.
- Duff, T. E. (1999) *Plutarch's Lives. Exploring Virtue and Vice*, Oxford.
- Dyck, A. R. (1996) *A Commentary on Cicero, De Officiis*, Ann Arbor.
- Dyck, A. R. (2004) *A Commentary on Cicero, De Legibus*, Ann Arbor.

- Dyck, A. R. (2008) *Cicero. Catilinarians*, Cambridge.
- Dyck, A. R. (2012) *Marcus Tullius Cicero. Speeches on Behalf of Marcus Fonteius and Marcus Aemilius Scaurus*, Oxford.
- Eck, W. (1974) 'Beförderungskriterien innerhalb der senatorischen Laufbahn, dargestellt an der Zeit von 69 bis 138 n. Chr.', *ANRW* II.1, 158–228.
- Edelstein, L. (1938) Review of Boyance, *Études sur le Songe de Scipion*, *AJPh* 59, 360–4.
- Edwards, C., and Woolf, G. (2003) 'Cosmopolis: Rome as world city', in C. Edwards and G. Woolf (eds) *Rome the Cosmopolis*, Cambridge, 1–20.
- Edwell, P. (2008) *Between Rome and Persia. The Middle Euphrates, Mesopotamia and Palmyra under Roman Control*, London.
- Ehrhardt, C. T. H. R. (1995) 'Crossing the Rubicon', *Antichthon* 29, 30–41.
- Eilers, C. F. (2002) *Roman Patrons of Greek Cities*, Oxford.
- Eilers, C. F., and N. P. Milner (1995) 'Q. Mucius Scaevola and Oenoanda: a new inscription', *Anatolian Studies* 45, 73–89.
- Engels, J. (1999) *Augusteische Oikumenegeographie und Universalhistorie im Werk Strabons von Amaseia*, Stuttgart.
- Erskine, A. (1990) *The Hellenistic Stoa*, London.
- Esch, T. (2011) 'Zur kommunalen Neuordnung Kleinasiens durch Pompeius: Kilikia, Padias und Pontos—Ein Vergleich', in E. Schwertheim (ed.) *Studien zum antiken Kleinasien VII*, Bonn, 35–95.
- Ewins, U. (1960) 'Ne quis iudicio circumveniat', *JRS* 50, 94–107.
- Fallu, E. (1970) 'La première lettre de Cicéron à Quintus et la *lex Julia de repetundis*', *REL* 48, 180–204.
- Fantham, E. (1975) 'The trials of Gabinius in 54 B.C.', *Historia* 24, 425–43.
- Fantham, E. (1997) 'The contexts and occasions of Roman public rhetoric', in W. J. Dominik (ed.) *Roman Eloquence: Rhetoric in Society and Literature*, London, 111–28.
- Fascione, L. (1974) 'Riflessioni sull'orazione per Rabirio Postumo', *Studi Senesi* 86, 335–76.
- Fehrle, R. (1983) *Cato Uticensis*, Darmstadt.
- Feldherr, A. (1998) *Spectacle and Society in Livy's History*, Berkeley.
- Ferrary, J.-L. (1975) 'Cicéron et la loi judiciaire de Cotta', *Mélanges de l'Ecole française de Rome. Antiquité* 87, 321–48.
- Ferrary, J.-L. (1988) *Philhellénisme et impérialisme*, Rome.
- Ferrary, J.-L. (1998) 'Chapitres tralatites et références à des lois antérieures dans les lois Romaines', in M. Humbert and Y. Thomas (eds) *Mélanges à la mémoire de A. Magdelain*, Paris, 151–67.
- Ferrary, J.-L. (2000) 'Les gouverneurs des provinces romaines d'Asie Mineure (Asie et Cilicie), depuis l'organisation de la province d'Asie jusqu'à la première guerre de Mithridate (126–88 av. J.-C.)', *Chiron* 30, 161–93.
- Ferrary, J.-L. (2001) 'À propos des pouvoirs d'Auguste', *Cahiers du Centre Gustave Glotz* 12, 101–54.
- Ferrary, J.-L. (2009) 'After the embassy to Rome: publication and implementation', in C. Eilers (ed.) *Diplomats and Diplomacy in the Roman World*, Leiden, 127–42.
- Ferrary, J.-L. (2009a) 'The powers of Augustus' (trans. J. Edmondson), in J. Edmondson (ed.) *Augustus*, Edinburgh, 90–136.

- Fletcher, W. G. (1939) 'The Pontic cities of Pompey the Great', *TAPA* 70, 17–29.
- Flower, H. I. (2010) *Roman Republics*, Princeton.
- Fotheringham, L. S. (2013) *Persuasive Language in Cicero's Pro Milone: A Close Reading and Commentary*, London.
- Frank, T. (1914) 'The background of the *Lex Manilia*', *CP* 9, 191–3.
- Frank, T. (1914a) *Roman Imperialism*, New York.
- Frazel, T. D. (2009) *The Rhetoric of Cicero's In Verrem*, Göttingen.
- Freeman, P. W. M. (1994) 'Pompey's eastern settlement: a matter of presentation?', in C. D. Deroux (ed.) *Studies in Latin Literature and Roman History VII*, 143–79.
- Friesen, S. J. (1993) *Twice Neokoros: Ephesus, Asia, and the Cult of the Flavian Imperial Family*, Leiden.
- Gabba, E. (1976) *Republican Rome. The Army and the Allies*, trans. P. J. Cuff, Berkeley.
- Gabrielsen, V. (1997) *The Naval Aristocracy of Hellenistic Rhodes*, Aarhus.
- Gagliardi, L. (2011) *Cesare, Pompeo e la lotta per le magistrature. Anni 52–50 a.C.*, Milan.
- Galinsky, K. (1996) *Augustan Culture*, Princeton.
- Galsterer, H. (1996) 'The administration of justice', in A. Bowman, E. Champlin, and A. Lintott (eds) *Cambridge Ancient History*, 2nd edn, vol. 10, 397–413.
- García Moreno, L. A. (1992) 'Paradoxography and political ideals in Plutarch's *Life of Sertorius*', in P. A. Stadter (ed.) *Plutarch and the Historical Tradition*, London, 132–58.
- Garnsey, P. (1997) *Ideas of Slavery from Aristotle to Augustine*, Cambridge.
- Geiger, J. (1971) *A Commentary on Plutarch's Cato Minor*, diss. University of Oxford.
- Geiger, J. (1972) 'Canidius or Caninius?', *CQ* 22, 130–4.
- Geiger, J. (1979) 'Munatius Rufus and Thræsea Paetus on Cato the Younger', *Athenaeum* 57, 48–72.
- Geiger, J. (1984) 'Contemporary politics in Cicero's *De Republica*', *CP* 79, 38–43.
- Gelzer, M. (1939) 'M. Tullius Cicero (als Politiker)', *RE* 2.13, cols 827–1091.
- Gelzer, M. (1961) 'Der Antrag des Cato Uticensis, Caesar den Germanen auszuliefern', in E. Kaufmann (ed.) *Festgabe für Paul Kirn*, Berlin, 46–53.
- Gelzer, M. (1963) *Kleine Schriften*, ed. H. Strasburger und C. Meier, vol. 2, Wiesbaden.
- Gelzer, M. (1968) *Caesar. Politician and Statesman*, trans. P. Needham, Oxford.
- Gelzer, M. (1969) *Cicero: ein biographischer Versuch*, Wiesbaden.
- Gelzer, M. (1984) *Pompeius*, rev. E. Hermann-Otto, Stuttgart.
- Gildenhard, I. (2011) *Cicero, Against Verres, 2.1.53–86*, Cambridge.
- Gill, C. (1998) 'Personhood and personality: the four-personae theory in Cicero *De Officiis* I', *Oxford Studies in Ancient Philosophy* 6, 169–200.
- Giovannini, A. (1983) *Consulare Imperium*, Basel.
- Girardet, K. M. (1987) 'Die lex Iulia de provinciis', *RhM* 130, 291–329.
- Girardet, K. M. (1991) 'Der Triumph des Pompeius im Jahre 61 v. Chr.—*ex Asia*?', *ZPE* 89, 201–15.
- Gleason, K. L. (1994) 'Porticus Pompeiana: A new perspective on the first public park of ancient Rome', *Journal of Garden History* 14, 13–27.
- Glew, D. G. (1978) 'Mithridates Eupator and Rome: a study of the background of the first Mithridatic war', *Athenaeum* 55, 380–405.
- Goar, R. J. (1987) *The Legend of Cato Uticensis from the First Century B.C. to the Fifth Century A.D.*, Brussels.

- Gold, B. K. (1985) 'Pompey and Theophanes of Mytilene', *AJPh* 106, 312–27.
- Graver, M. (2002) *Cicero on the Emotions*, Chicago.
- Gray, E. W. (1964) Review of Rizzo, *Le fonti per la storia della conquista pompeiana della Siria*, *JRS* 54, 200–1.
- Gray-Fow, M. J. G. (1990) 'The mental breakdown of a Roman senator: M. Calpurnius Bibulus', *G&R* 37, 179–90.
- Greenidge, A. H. J. (1901) *The Legal Procedure of Cicero's Time*, Oxford.
- Griffin, M. T. (1973) 'The "leges iudicariae" of the pre-Sullan era', *CQ* 23, 108–26.
- Griffin, M. T. (1973a) 'The tribune C. Cornelius', *JRS* 63, 196–213.
- Griffin, M. T. (1976) *Seneca. A Philosopher in Politics*, Oxford.
- Griffin, M. T. (1986) 'Philosophy, Cato, and Roman suicide: I', *G&R* 33, 64–77.
- Griffin, M. T. (1986a) 'Philosophy, Cato, and Roman suicide: II', *G&R* 33, 192–202.
- Griffin, M. T. (1989) 'Philosophy, politics, and politicians at Rome', in M. T. Griffin and J. Barnes (eds) *Philosophia Togata*, Oxford, 1–37.
- Griffin, M. T. (2008) 'Iure plectimur. The Roman critique of Roman imperialism', in T. Corey Brennan and H. I. Flower (eds) *East & West: Papers in Ancient History Presented to Glen W. Bowersock*, Cambridge MA, 85–111.
- Griffin, M. T. (2011) 'The politics of virtue: three puzzles in Cicero's *De Officiis*', in B. Morison and K. Ierodiakonou (eds) *Episteme, etc.: Essays in Honour of Jonathan Barnes*, Oxford, 310–27.
- Gruber, J. (1988) 'Cicero und das hellenistische Herrscherideal', *Wiener Studien* 101, 243–58.
- Gruen, E. S. (1966) 'The Dolabellae and Sulla', *AJPh* 87, 385–99.
- Gruen, E. S. (1968) *Roman Politics and the Criminal Courts, 149–78 BC*, Cambridge MA.
- Gruen, E. S. (1969) 'Pompey, the Roman aristocracy, and the conference of Luca', *Historia* 18, 71–108.
- Gruen, E. S. (1969a) Review of Shackleton Bailey, *Cicero's Letters to Atticus*, *AJPh* 90, 465–9.
- Gruen, E. S. (1971) 'Pompey, Metellus Pius, and the trials of 70–69 B.C.: the perils of schematism', *AJPh* 92, 1–16.
- Gruen, E. S. (1973) 'The trial of C. Antonius', *Latomus* 32, 301–10.
- Gruen, E. S. (1974) *The Last Generation of the Roman Republic*, Berkeley.
- Gruen, E. S. (1984) *The Hellenistic World and the Coming of Rome*, Berkeley.
- Gruen, E. S. (1990) 'The imperial policy of Augustus' in K. A. Raafaub and M. Toher (eds) *Between Republic and Empire*, Berkeley, 395–416.
- Gruen, E. S. (2002) *Diaspora. Jews Amidst Greeks and Romans*, Cambridge MA.
- Gruen, E. S. (2009) 'Caesar as a politician', in M. T. Griffin (ed.) *A Companion to Julius Caesar*, Oxford, 23–36.
- Habicht, C. (1975) 'New evidence on the province of Asia', *JRS* 65, 64–91.
- Habinek, T. (2000) 'Seneca's renown: *gloria*, *claritudo*, and the replication of the Roman elite', *CA* 19, 264–303.
- Haffter, H. (1940) 'Politisches Denken im alten Rom', *SIFC* 17, 97–121.
- Halkin, L. (1953) *La supplication d'action de grâces chez les Romains*, Paris.
- Hall, J. (1996) 'Cicero *Fam.* 5.8 and *Fam.* 15.5 in the light of modern politeness theory', *Antichthon* 30, 19–33.
- Hands, A. R. (1972) 'Livius Drusus and the courts', *Phoenix* 26, 268–74.

- Hantos, T. (1988) *Res Publica Constituta. Die Verfassung des Dictators Sulla*, Stuttgart.
- Hardie, P. (2012) *Rumour and Renown: Representations of Fama in Western Literature*, Cambridge.
- Harris, W. V. (1985) *War and Imperialism in Republican Rome 327–70 B.C.*, Oxford (orig. 1979).
- Hayne, L. (1974) 'The politics of M'. Glabrio, cos. 67', *CP* 69, 280–2.
- Heftner, H. (1995) *Plutarch und der Aufstieg des Pompeius*, Frankfurt.
- Heinze, R. (1924) 'Cicero's Staat als Politische Tendenzschrift', *Hermes* 59, 73–96.
- Heitland, W. E. (1911) *A Short History of the Roman Republic*, Cambridge.
- Hellegouarc'h, J. (1963) *Le vocabulaire Latin des relations et des partis politiques sous la République*, Paris.
- Henderson, M. I. (1951) 'The process "de repetundis"', *JRS* 41, 71–88.
- Hezser, C. (2005) *Jewish Slavery in Antiquity*, Oxford.
- Hickson-Hahn, F. (2000) 'Pompey's *supplicatio duplicata*: a novel form of thanksgiving', *Phoenix* 54, 244–54.
- Hillard, T. W. (1984) 'The seventies, the senate and popular discontent. A background to the First Verrine. Part II', *Ancient Society* 14, 71–125.
- Hind, J. G. F. (1992) 'Mithridates', in J. A. Crook, A. Lintott, and E. Rawson (eds) *Cambridge Ancient History*, 2nd edn, vol. 9, Cambridge, 129–64.
- Hoff, M. (2005) 'Athens honors Pompey the Great', in L. de Blois et al. (eds) *The Statesman in Plutarch's Works*, vol. 2, Leiden, 327–36.
- Hölkeskamp, K.-J. (2009) 'Eine politische Kultur (in) der Krise? Gemäßigt radikale Vorbemerkungen zum kategorischen Imperativ der Konzepte', in K.-J. Hölkeskamp, with E. Müller-Luckner (eds) *Eine politische Kultur (in) der Krise?*, Munich, 1–25.
- Hollander, D. B. (2007) *Money in the Late Roman Republic*, Leiden.
- Hurlet, F. (2006) 'Auguste et Pompée', *Athenaeum* 94, 467–85.
- Hurlet, F. (2006a) *Le proconsul et le prince d'Auguste à Dioclétien*, Paris.
- Johannemann, R. (1935) *Cicero und Pompeius in ihren wechselseitigen Beziehungen bis zum Jahre 51 vor Christi Geburt*, diss. Westfälischen Wilhelms-Universität zu Münster.
- Jolliffe, R. O. (1919) *Phases of Corruption in Roman Administration in the Last Half-Century of the Roman Republic*, Menasha WI.
- Jones, A. H. M. (1971) *The Cities of the Eastern Roman Provinces*, 2nd edn, Oxford.
- Jones, C. P. (1970) 'Cicero's Cato', *RhM* 113, 188–96.
- Kallet-Marx, R. (1989) 'Asconius 14–15 Clark and the date of Q. Mucius Scaevola's command in Asia', *CP* 84, 305–12.
- Kallet-Marx, R. (1990) 'The trial of Rutilius Rufus', *Phoenix* 44, 122–39.
- Kallet-Marx, R. (1995) *Hegemony to Empire*, Berkeley.
- Kaster, R. A. (2005) *Emotion, Restraint, and Community in Ancient Rome*, Oxford.
- Kaster, R. A. (2006) *Cicero. Speech on Behalf of Publius Sestius*, Oxford.
- Kay, P. (2014) *Rome's Economic Revolution*, Oxford.
- Keaveney, A. (1981) 'Roman Treaties with Parthia circa 95–circa 64 B.C.', *AJPh* 102, 195–212.
- Keaveney, A. (1982) 'The king and the war-lords: Romano-Parthian relations circa 64–53 BC', *AJPh* 103, 412–28.
- Keaveney, A. (1992) *Lucullus: A Life*, London.

- Kidd, I. G. (1988) *Posidonius*, vol. 2, Cambridge.
- Kidd, I. G. (1989) 'Posidonius as philosopher-historian', in M. T. Griffin and J. Barnes (eds) *Philosophia Togata*, Oxford, 38–50.
- Kittel, G., and G. Friedrich (eds) (1985) *Theological Dictionary of the New Testament. Abridged in One Volume*, Grand Rapids.
- Klodt, C. (1992) *Ciceros Rede Pro Rabirio Postumo*, Stuttgart.
- Klodt, C. (2007) Review of Siani-Davies, *Cicero's Speech Pro Rabirio Postumo*, *Gnomon* 79, 597–605.
- Konrad, C. F. (1994) *Plutarch's Sertorius: a Historical Commentary*, Chapel Hill.
- Konstan, D. (2007) 'The contemporary political context', in M. B. Skinner (ed.) *A Companion to Catullus*, Malden MA.
- Kuttner, A. L. (1999) 'Culture and history at Pompey's museum', *TAPA* 129, 343–73.
- Langlands, R. (2006) *Sexual Morality in Ancient Rome*, Cambridge.
- Langlands, R. (2011) 'Roman exempla and situation ethics: Valerius Maximus and Cicero de Officiis', *JRS* 101, 100–22.
- Last, H. (1932) 'The breakdown of the Sullan system and the rise of Pompey', in S. A. Cook, F. E. Adcock, and M. P. Charlesworth (eds) *Cambridge Ancient History*, 1st edn, vol. 9, 313–49.
- Lavan, M. (2013) *Slaves to Rome: Paradigms of Empire in Roman Culture*, Cambridge.
- Lawrence, S. J. (2006) *Inside Out: The Depiction of Externality in Valerius Maximus*, diss. University of Sydney.
- Lawrence, S. J. (2015) 'Dead on time: Valerius Maximus 9.13 and Stoicism', *Antichthon* 49, 135–55.
- Leach, J. (1978) *Pompey the Great*, London.
- Lee, G. (1990) *Catullus. The Complete Poems*, Oxford.
- Leeman, A. D. (1952) 'Seneca and Posidonius: a philosophical commentary on Sen. ep. 102, 3–19', *Mnemosyne* 5, 57–79.
- Lehmann, G. A. (1980) *Politische Reformvorschläge in der Krise der späten römischen Republik*, Meisenheim.
- London, J. E. (1997) *Empire of Honour. The Art of Government in the Roman World*, Oxford.
- Lerouge-Cohen, C. (2005) 'Les guerres parthiques de Démétrios II et Antiochos VII dans les sources gréco-romaines, de Posidonios à Trogue/Justin', *Journal des savants* 2, 217–52.
- Levene, D. (2010) 'Pompeius Trogus in Tacitus' *Annals*', in C. S. Kraus, J. Marincola, and C. Pelling (eds) *Ancient Historiography and its Contexts*, Oxford, 294–311.
- Levick, B. (1998) 'The Veneti revisited: C. E. Stevens and the tradition of Caesar the propagandist', in K. Welch and A. Powell (eds) *Julius Caesar as Artful Reporter*, London, 61–84.
- Levy, E. (1956) 'Zur quellengeschichtlichen Bedeutung der leidener Paulussentenzen', in G. G. Archi et al. (eds) *Pauli Sententiarum Fragmentum Leidense*, Leiden, 59–78.
- Lewis, R. G. (2006) *Asconius. Commentaries on Speeches of Cicero*, Oxford.
- Linderski, J. (1966) 'Were Pompey and Crassus elected in absence to their first consulship?', in M.-L. Bernhard (ed.) *Mélanges offerts à Kazimierz Michałowski*, Warsaw, 523–6.
- Linderski, J. (1971) 'Three trials in 54 B.C.', *Studi E. Volterra* 2, 281–302.

- Linderski, J. (1972) 'The aedileship of Favonius, Curio the younger, and Cicero's election to the augurate', *HSCP* 76, 181–200.
- Linderski, J. (1985) 'The dramatic date of Varro, *De Re Rustica*, Book III and the elections in 54', *Historia* 34, 248–54.
- Linderski, J. (1986) 'The augural law', *ANRW* II.16.3, 2146–312.
- Linderski, J. (2007) *Roman Questions II: Selected Papers*, Stuttgart.
- Lintott, A. W. (1971) 'Lucan and the history of the civil war', *CQ* 21, 488–505.
- Lintott, A. W. (1974) 'Cicero and Milo', *JRS* 64, 62–78.
- Lintott, A. W. (1980) 'M. Caelius Rufus and Pausanias', *CQ* 30, 385–6.
- Lintott, A. W. (1981) 'The *leges de repetundis* and associate measures under the Republic', *ZSS* 98, 162–212.
- Lintott, A. W. (1992) *Judicial Reform and Land Reform in the Roman Republic*, Cambridge.
- Lintott, A. W. (1993) *Imperium Romanum*, London.
- Lintott, A. W. (1997) 'Cassius Dio and the history of the late Roman republic', *ANRW* II.34.3, 2497–523.
- Lintott, A. W. (1999) *The Constitution of the Roman Republic*, Oxford.
- Lintott, A. W. (1999a) *Violence in Republican Rome*, 2nd edn, Oxford.
- Lintott, A. W. (2008) *Cicero as Evidence*, Oxford.
- Lintott, A. W. (2013) *Plutarch: Demosthenes and Cicero*, Oxford.
- Long, A. A. (1967) 'Carneades and the Stoic *telos*', *Phronesis* 12, 59–90.
- Long, A. A. (1995) 'Cicero's politics in *De Officiis*', in A. Laks and M. Schofield (eds) *Justice and Generosity. Studies in Hellenistic Social and Political Philosophy*, Cambridge, 213–40.
- Long, A. A., and D. N. Sedley (1987) *The Hellenistic Philosophers*, Cambridge.
- Magie, D. (1950) *Roman Rule in Asia Minor*, Princeton.
- Malcovati, H. (1955) *Oratorum Romanorum Fragmenta*, 2nd edn, Turin.
- Malitz, J. (1983) *Die Historien des Poseidonios*, Munich.
- Manuwald, G. (2007) *Cicero*, Philippics 3–9, Berlin.
- Marinone, N. (2004) *Cronologia Ciceroniana*, 2nd edn, Bologna.
- Marshall, A. J. (1972) 'The *lex Pompeia de provinciis* (52 B.C.) and Cicero's imperium in 51–50 B.C.: constitutional aspects', *ANRW* I.1, 887–921.
- Marshall, A. J. (1975) 'Flaccus and the Jews of Asia (Cicero *Pro Flacco* 28.67–69)', *Phoenix* 29, 139–54.
- Marshall, B. A. (1975) 'The date of delivery of Cicero's *In Pisonem*', *CQ* 25, 88–93.
- Marshall, B. A. (1975a) 'Q. Cicero, Hortensius and the *lex Aurelia*', *RhM* 118, 137–52.
- Marshall, B. A. (1976) *Crassus. A Political Biography*, Amsterdam.
- Marshall, B. A. (1985) *A Historical Commentary on Asconius*, Columbia.
- Martina, M. (1982) 'Le clientele piratiche di Pompeo', in *La rivoluzione romana. Inchiesta tra gli antichisti*, Naples, 175–85.
- Mattingly, H. B. (1970) 'The extortion law of the Tabula Bembina', *JRS* 60, 154–68.
- May, J. M. (1988) *Trials of Character: The Eloquence of Ciceronian Ethos*, Chapel Hill.
- Mayer, R. (1981) *Lucan Civil War VIII*, Warminster.
- McDermott, W. C. (1970) 'Cato the Younger: *loquax* or *eloquens*?', *Cl. Bull.* 46, 65–75.
- McDermott, W. C. (1972) 'M. Cicero and Tiro', *Historia* 21, 259–86.
- McDermott, W. C. (1977) '*Lex de tribunicia potestate* (70 B.C.)', *CP* 72, 49–52.

- McDermott, W. C. (1977a) 'The Verrine jury', *RhM* 120, 64–75.
- McDermott, W. C. (1983) 'Mamurra, *eques Formianus*', *RhM* 126, 292–307.
- McDonnell, M. (2006) *Roman Manliness. Virtus and the Roman Republic*, Cambridge.
- McDougall, J. J. (1991) 'From Sulla to Pompey: the transformation of the attitude of the east towards Rome', *Cahiers des études anciennes* 26, 59–71.
- McGing, B. C. (1986) *The Foreign Policy of Mithridates VI Eupator, King of Pontus*, Leiden.
- McGushin, P. (1992) *Sallust. The Histories*, Oxford.
- Meier, C. (1961) 'Zur Chronologie und Politik in Caesars erstem Konsulat', *Historia* 10, 68–98.
- Meier, C. (1980) *Res Publica Amissa*, new edn, Wiesbaden.
- Merkelbach, R. (1996) 'L. Antonius, gladiator Asiaticus, und der Brief des Q. Minucius Thermus an die Diözesen von Asia', *Epigraphica Anatolica* 25, 73–6.
- Meyer, E. (1922) *Caesars Monarchie und das Principat des Pompejus*, 3rd edn, Stuttgart.
- Meyer, H. D. (1957) *Cicero und das Reich*, diss. University of Cologne.
- Michels, A. K. (1967) *The Calendar of the Roman Republic*, Princeton.
- Millar, F. (1998) *The Crowd in Rome in the Late Republic*, Ann Arbor.
- Millar, F. (2002) *Rome, the Greek World, and the East*, Vol. 1: *The Roman Republic and the Augustan Revolution*, ed. H. M. Cotton and G. M. Rogers, Chapel Hill.
- Mitchell, T. N. (1979) *Cicero. The Ascending Years*, New Haven.
- Momigliano, A. (1975) *Alien Wisdom. The Limits of Hellenization*, Cambridge.
- Momigliano, A. (1992) *Nono contributo alla storia degli studi classici e del mondo antico*, ed. R. Di Donato, Rome.
- Mommsen, T. (1887) *Römisches Staatsrecht*, 3rd edn, vol. 2.1, Leipzig.
- Mommsen, T. (1888) *Römisches Staatsrecht*, 3rd edn, vol. 3.2, Leipzig.
- Mommsen, T. (1889) *Römische Geschichte*, 8th edn, vol. 3, Berlin.
- Mommsen, T. (1905–13) *Gesammelte Schriften*, Berlin.
- Mommsen, T. (1908) *The History of Rome*, trans. W. P. Dickson, new edn, New York.
- Monterroso, A. (2008) 'Tres controversias sobre las catorce *nationes* de Coponio, *quae sunt circa Pompeium*', in E. La Rocca, P. León, and C. Parisi Presicce (eds) *Le due patrie acquisite*, Rome, 277–85.
- Morford, M. (1985) 'Nero's patronage and participation in literature and the arts', *ANRW* II.32.3, 2003–31.
- Morrell, K. (2014) 'Cato and the courts in 54 B.C.', *CQ* 64, 669–81.
- Morrell, K. (2015) 'Appian and the judiciary law of M. Livius Drusus (*tr. pl.* 91)', in K. Welch (ed.) *Appian's Roman History. Empire and Civil War*, Swansea, 235–55.
- Morrell, K. (2015a) 'Cato, Caesar, and the Germani', *Antichthon* 49, 73–93.
- Morrell, K. (forthcoming a) 'Cato, Pompey's third consulship, and the politics of Milo's trial', in C. Steel, H. van der Blom, and C. Gray (eds) *Institutions and Ideology in Republican Rome: Speech, Audience and Decision*, Cambridge.
- Morrell, K. (forthcoming b) '"Certain gentlemen say..." Cicero, Cato, and the debate on the validity of Clodius' laws', in C. Gray, A. Balbo, R. Marshall, and C. E. Steel (eds) *Reading Republican Oratory: Reconstructions, Contexts, Receptions*, Oxford.
- Morstein-Marx, R. (2007) 'Caesar's alleged fear of prosecution and his *ratio absentis* in the approach to the civil war', *Historia* 56, 159–78.

- Morstein-Marx, R., and N. S. Rosenstein (2006) 'The transformation of the republic', in N. S. Rosenstein and R. Morstein-Marx (eds) *A Companion to the Roman Republic*, Malden MA, 625–37.
- Mouritsen, H. (2011) *The Freedman in the Roman World*, Cambridge.
- Münzer, F. (1999) *Roman Aristocratic Parties and Families*, trans. T. Ridley, Baltimore.
- Newman, R. J. (1988) 'In umbra virtutis. Gloria in the thought of Seneca the philosopher', *Eranos* 86, 145–59.
- Nicolet, C. (1966) *L'ordre équestre à l'époque républicaine: 312–43 av. J.-C.*, vol. 1, Paris.
- Nicolet, C. (1980) *The World of the Citizen in Republican Rome*, trans. P. S. Falla, Berkeley.
- Nicolet, C. (1991) *Space, Geography and Politics in the Early Roman Empire*, Ann Arbor.
- Nicolet, C. (1996) *Financial Documents and Geographical Knowledge in the Roman World*, Oxford.
- Nisbet, R. G. M. (1961) *M. Tulli Ciceronis in L. Calpurnium Pisonem Oratio*, Oxford.
- Noé, E. (1997) 'Province, parti e guerre civile: il caso di Labieno', *Athenaeum* 85, 409–36.
- O'Neil, J. L. (1981) 'How democratic was Hellenistic Rhodes?', *Athenaeum* 59, 468–73.
- Obbink, D. (1999) 'The Stoic sage in the cosmic city', in K. Ierodiakonou (ed.) *Topics in Stoic Philosophy*, Oxford, 178–95.
- Olbrycht, M. J. (2009) 'Mithridates VI Eupator and Iran', in J. M. Højte (ed.) *Mithridates VI and the Pontic Kingdom*, Aarhus.
- Oost, S. I. (1955) 'Cato Uticensis and the annexation of Cyprus', *CP* 50, 98–112.
- Oost, S. I. (1956) 'The date of the *lex Iulia de repetundis*', *AJPh* 77, 19–28.
- Oost, S. I. (1963) 'Cyrene, 96–74 B.C.', *CP* 58, 11–25.
- Orlin, E. M. (1997) *Temples, Religion, and Politics in the Roman Republic*, Leiden.
- Östenberg, I. (2009) *Staging the World*, Oxford.
- Pantzerhielm Thomas, S. (1922) *Den Yngre Cato*, Kristiania.
- Pastor, J. (1997) *Land and Economy in Ancient Palestine*, London.
- Pečírka, J. (1955) 'Ciceronova theorie a praxe správy provincií', *Studia Antiqua Antonio Salac*, 40–8.
- Pelling, C. (2002) *Plutarch and History*, Swansea.
- Pelling, C. (2007) 'The Greek historians of Rome', in J. Marincola (ed.) *A Companion to Greek and Roman Historiography*, Oxford, 244–58.
- Peterson, W. (1899) *M. Tulli Ciceronis. Pro A. Cluentio Oratio*, London.
- Pina Polo, F. (1989) *Las contiones civiles y militares en Roma*, Zaragoza.
- Pina Polo, F. (2009) 'Deportation of indigenous population as a strategy for Roman dominion in Hispania', in Á. Morillo, N. Hanel, and E. Martín (eds) *Limes XX. Estudios sobre la frontera Romana*, Madrid, 281–8.
- Pina Polo, F. (2011) *The Consul at Rome*, Cambridge.
- Pina Polo, F. (2015) 'Foreign *clientelae* revisited: a methodological critique', in M. Jehne and F. Pina Polo (eds) *Foreign clientelae in the Roman Empire. A Reconsideration*, Stuttgart, 19–41.
- Pitassi, M. (2009) *The Navies of Rome*, Woodbridge.
- Pittenger, M. R. P. (2008) *Contested Triumphs*, Berkeley.

- Pohl, H. (1993) *Die römische Politik und die Piraterie im östlichen Mittelmeer vom 3. bis zum 1. Jh. v. Chr.*, Berlin.
- Pohlenz, M. (1949) *Die Stoa: Geschichte einer geistigen Bewegung*, Göttingen.
- Postgate, J. P. (1917) *Lucan De Bello Civili VIII*, Cambridge.
- Powell, A. (1998) 'Julius Caesar and the presentation of massacre', in K. Welch and A. Powell (eds) *Julius Caesar as Artful Reporter*, London, 111–37.
- Powell, J. G. F. (1994) 'The *rector rei publicae* of Cicero's *De Republica*', *Scripta Classica Israelica* 13, 19–29.
- Prag, J. R. W. (2013) 'Provincials, patrons, and the rhetoric of *repetundae*', in C. Steel and H. van der Blom (eds) *Community and Communication: Oratory and Politics in Republican Rome*, Oxford, 267–83.
- Purcell, N. (2001) 'The *ordo scribarum*: a study in the loss of memory', *Mélanges de l'Ecole française de Rome. Antiquité* 133, 633–74.
- Quinn, K. (1973) *Catullus. The Poems*, 2nd edn, London.
- Raaflaub, K. A. (1974) *Dignitatis Contentio*, Munich.
- Rafferty, D. (2016) *Consular and Praetorian Provincial Allocations in the Late Roman Republic*, diss. University of Melbourne.
- Ramsey, J. T. (1980) 'The prosecution of C. Manilius in 66 B.C. and Cicero's *Pro Manilio*', *Phoenix* 34, 323–6.
- Ramsey, J. T. (2003) *Cicero. Philippics I–II*, Cambridge.
- Ramsey, J. T. (2005) 'Mark Antony's judiciary reform and its revival under the Triumvirs', *JRS* 95, 20–37.
- Ramsey, J. T. (2009) 'The proconsular years: politics at a distance', in M. T. Griffin (ed.) *A Companion to Julius Caesar*, Malden MA, 37–56.
- Ramsey, J. T. (2016) 'How and why was Pompey made sole consul in 52 BC?', *Historia* 65, 298–324.
- Rauh, S. H. (2012) *Suicide in the Roman Republic*, diss. University of California Santa Barbara.
- Rawson, E. (1985) *Intellectual Life in the Late Roman Republic*, London.
- Rawson, E. (1986) 'Cassius and Brutus: the memory of the Liberators', in I. S. Moxon, J. D. Smart, and A. J. Woodman (eds) *Past Perspectives*, Cambridge, 101–19.
- Rawson, E. (1989) 'Roman rulers and the philosophic adviser', in M. Griffin and J. Barnes (eds) *Philosophia Togata*, Oxford, 233–57.
- Rawson, E. (1992) 'Caesar: civil war and dictatorship', in J. A. Crook, A. Lintott, and E. Rawson (eds) *Cambridge Ancient History*, 2nd edn, vol. 9, Cambridge, 424–67.
- Reinhardt, K. (1953) 'Poseidonios (3)', *RE* 22.1, cols 558–826.
- Reynolds, J. (1962) 'Cyrenaica, Pompey and Cn. Cornelius Lentulus Marcellinus', *JRS* 52, 97–103.
- Rich, J. W. (1990) *Cassius Dio. The Augustan Settlement*, Warminster.
- Rich, J. W. (2009) 'Augustus, war and peace', in J. Edmondson (ed.) *Augustus*, Edinburgh, 137–64.
- Rich, J. W. (2011) 'The *fetiales* and Roman international relations', in J. H. Richardson and F. Santangelo (eds) *Priests and State in the Roman World*, Stuttgart, 187–242.
- Rich, J. W. (2015) 'Appian, Polybius and the Romans' war with Antiochus the Great: a study in Appian's sources and methods', in K. Welch (ed.) *Appian's Roman History: Empire and Civil War*, Swansea, 65–123.

- Richardson, J. S. (1987) 'The purpose of the *lex Calpurnia de repetundis*', *JRS* 77, 1–12.
- Riggsby, A. M. (1999) *Crime and Community in Ciceronian Rome*, Austin.
- Riggsby, A. M. (2006) *Caesar in Gaul and Rome. War in Words*, Austin.
- Riley, H. T. (1853) *The Pharsalia of Lucan*, London.
- Rizzo, F. P. (1963) *Le fonti per la storia della conquista pompeiana della Siria*, Palermo.
- Römer, F. (1990) 'Zum Aufbau der Exempelasammlung des Valerius Maximus', *Wiener Studien* 103, 99–107.
- Rosenstein, N. S. (1990) *Imperatores Victi. Military Defeat and Aristocratic Competition in the Middle and Late Republic*, Berkeley.
- Rosenstein, N. S. (1995) 'Sorting out the lot in Republican Rome', *AJPh* 116, 43–75.
- Rosenstein, N. S. (2004) *Rome at War*, Chapel Hill.
- Rosenstein, N. S. (2011) 'War, wealth and consuls', in H. Beck (ed.) *Consuls and Res Publica: Holding High Office in the Roman Republic*, Cambridge, 133–60.
- Rosenstein, N. S. (2012) *Rome and the Mediterranean 290 to 146 BC*, Edinburgh.
- Rosillo López, C. (2005) *La corruption a la fin de la republique Romaine (II^e–I^{er} s. av. J.-C.): aspects politiques et financiers*, diss. University of Neuchâtel.
- Rosillo López, C. (2006–7) 'El funcionamiento de un pulso político: discurso, endeudamiento y política en el «de aere alieno, de vi et de ambitu» de Clodio', *Espacio, Tiempo y Forma, Serie II, Historia Antigua* 19–20, 161–75.
- Röthe, C. (1978) *Humanitas, Fides, und Verwandtes in der römischen Provinzialpolitik*, Berlin.
- Rotondi, G. (1912) *Leges Publicae Populi Romani*, Milan.
- Ruebel, J. S. (1979) 'The trial of Milo in 52 B.C.: a chronological study', *TAPA* 109, 231–49.
- Russell, A. (2016) *The Politics of Public Space in Republican Rome*, Cambridge.
- Russo, P. (1974) *Marcus Porcius Cato Uticensis: a Political Reappraisal*, diss. Rutgers University.
- Ryan, F. X. (1994) 'The praetorship of Favonius', *AJPh* 115, 587–601.
- Ryan, F. X. (1995) 'The tribunate of C. Memmius L. f.', *Hermes* 123, 293–302.
- Ryan, F. X. (1996) 'Some persons in the *pro Cluentio*', *Tyche* 11, 195–205.
- Ryan, F. X. (1998) *Rank and Participation in the Republican Senate*, Stuttgart.
- Sacks, K. S. (1990) *Diodorus Siculus and the First Century*, Princeton.
- Sampson, G. C. (2008) *The Defeat of Rome: Crassus, Carrhae, and the Invasion of the East*, Barnsley.
- Santangelo, F. (2007) 'Pompey and religion', *Hermes* 135, 228–33.
- Santangelo, F. (2007a) *Sulla, the Elites and the Empire*, Leiden.
- Schalit, A. (2001) *König Herodes: der Mann und sein Werk*, 2nd edn, Berlin.
- Schmekel, A. (1892) *Die Philosophie der mittleren Stoa*, Berlin.
- Schofield, M. (1999) *The Stoic Idea of the City*, 2nd edn, Chicago.
- Schofield, M. (forthcoming) 'Cicero on Imperialism and the Soul', in R. Seaford, J. Wilkins, and M. Wright (eds) *Selfhood and the Soul: Essays on Ancient Thought and Literature in Honour of Christopher Gill*, Oxford.
- Schulz, R. (1997) *Herrschaft und Regierung. Roms Regiment in den Provinzen in der Zeit der Republik*, Paderborn.

- Seager, R. (1992) 'The Rise of Pompey', in J. A. Crook, A. Lintott, and E. Rawson (eds) *Cambridge Ancient History*, 2nd edn, vol. 9, Cambridge, 208–28.
- Seager, R. (2001) 'Maiestas in the Late Republic: some observations', in J. Cairns and O. Robinson (eds) *Critical Studies in Ancient Law, Comparative Law and Legal History*, Oxford, 143–53.
- Seager, R. (2002) *Pompey the Great*, Oxford (orig. 1979).
- Sedley, D. (1997) 'The ethics of Brutus and Cassius', *JRS* 87, 41–53.
- Shackleton Bailey, D. R. (1960) 'The Roman nobility in the second civil war', *CQ* 10, 253–67.
- Shackleton Bailey, D. R. (1965–70) *Cicero's Letters to Atticus*, Cambridge.
- Shackleton Bailey, D. R. (1971) *Cicero*, London.
- Shackleton Bailey, D. R. (1977) *Cicero. Epistulae ad Familiares*, Cambridge.
- Shackleton Bailey, D. R. (1980) *Cicero. Epistulae ad Quintum Fratrem et M. Brutum*, Cambridge.
- Shackleton Bailey, D. R. (1995) *Onomasticon to Cicero's Letters*, Stuttgart.
- Shackleton Bailey, D. R. (2001) *Cicero. Letters to Friends*, vol. 1, Cambridge MA.
- Shackleton Bailey, D. R. (2002) *Cicero. Letters to Quintus and Brutus*, Cambridge MA.
- Sharples, R. W. (2010) *Peripatetic Philosophy, 200 BC to AD 200*, Cambridge.
- Shatzman, I. (1972) 'The Roman general's authority over booty', *Historia* 21, 177–205.
- Shatzman, I. (1975) *Senatorial Wealth and Roman Politics*, Brussels.
- Shayegan, M. R. (2011) *Arsacids and Sasanians: Political Ideology in Post-Hellenistic and Late Antique Persia*, Cambridge.
- Sherk, R. K. (1969) *Roman Documents from the Greek East*, Baltimore.
- Sherk, R. K. (1984) *Rome and the Greek East to the Death of Augustus*, Cambridge.
- Sherwin-White, A. N. (1949) 'Poena legis repetundarum', *PBSR* 17, 5–25.
- Sherwin-White, A. N. (1952) 'The extortion procedure again', *JRS* 42, 43–55.
- Sherwin-White, A. N. (1956) 'Violence in Roman politics', *JRS* 46, 1–9.
- Sherwin-White, A. N. (1977) 'Roman involvement in Anatolia, 167–88 B.C.', *JRS* 67, 62–75.
- Sherwin-White, A. N. (1982) 'The *lex repetundarum* and the political ideas of Gaius Gracchus', *JRS* 72, 18–31.
- Sherwin-White, A. N. (1984) *Roman Foreign Policy in the East*, London.
- Sherwin-White, A. N. (1992) 'Lucullus, Pompey, and the East', in J. A. Crook, A. Lintott, and E. Rawson (eds) *Cambridge Ancient History*, 2nd edn, vol. 9, Cambridge, 229–73.
- Siani-Davies, M. (2001) *Cicero's Speech Pro Rabirio Postumo*, Oxford.
- Sigsbeft, D. L. (1976) 'The *Paradoxa Stoicorum* in Varro's *Menippeans*', *CP* 71, 244–8.
- Simpson, A. D. (1938) 'The departure of Crassus for Parthia', *TAPA* 69, 532–41.
- Skidmore, C. J. (1996) *Practical Ethics for Roman Gentlemen: The Work of Valerius Maximus*, Exeter.
- Skinner, M. B. (1981) *Catullus' Passer. The Arrangement of the Book of Polymetric Poems*, Salem.
- Sklenář, R. J. (2003) *The Taste for Nothingness. A Study of Virtus and Related Themes in Lucan's Bellum Civile*, Ann Arbor.
- Smallwood, E. M. (1976) *The Jews under Roman Rule*, Brill.
- Sorabji, R. (1993) *Animal Minds and Human Morals*, Ithaca.

- Stadter, P. A. (1999) 'Pompey: introduction', in *Plutarch. Roman Lives*, trans. R. Waterfield, with introduction and notes by P. A. Stadter, Oxford, 216–22.
- Stadter, P. A. (2014) *Plutarch and His Roman Readers*, Oxford.
- Stanton, G. R. (2003) 'Why did Caesar Cross the Rubicon?', *Historia* 52, 67–94.
- Steel, C. (2001) *Cicero, Rhetoric, and Empire*, Oxford.
- Steel, C. (2012) 'The *lex Pompeia de provinciis* of 52 B.C.: a reconsideration', *Historia* 61, 83–93.
- Steel, C. (2013) 'Cicero, oratory, and public life', in C. Steel (ed.) *The Cambridge Companion to Cicero*, Cambridge, 160–70.
- Steel, C. (2013a) *The End of the Roman Republic, 146–44 B.C.*, Edinburgh.
- Steel, C. (2013b) 'Pompeius, Helvius Mancina, and the Politics of Public Debate', in C. Steel and H. van der Blom (eds) *Community and Communication: Oratory and Politics in Republican Rome*, Oxford, 151–9.
- Steel, C. (2014) 'Rethinking Sulla: the case of the Roman senate', *CQ* 64, 657–68.
- Steel, C. (2014a) 'The Roman senate and the post-Sullan *res publica*', *Historia* 63, 323–39.
- Stein, P. (1930) *Die Senatssitzungen der Ciceronischen Zeit*, Münster.
- Stem, R. (1999) *Cicero and the Legacy of Cato Uticensis*, diss. University of Michigan.
- Stem, R. (2005) 'The first eloquent Stoic: Cicero on Cato the Younger', *CJ* 101, 37–49.
- Stewart, R. (1998) *Public Office in Early Rome: Ritual Procedure and Political Practice*, Ann Arbor.
- Stockton, D. (1971) *Cicero. A Political Biography*, London.
- Stockton, D. (1973) 'The first consulship of Pompey', *Historia* 22, 205–18.
- Stone, A. M. (1980) 'Pro Milone: Cicero's second thoughts', *Antichthon* 14, 88–111.
- Stone, A. M. (1999) 'Tribute to a statesman: Cicero and Sallust', *Antichthon* 33, 48–76.
- Stone, A. M. (2008) 'Greek ethics and Roman statesmen: *De Officiis* and the *Philippics*', in T. Stevenson and M. Wilson (eds) *Cicero's Philippics: History, Rhetoric, Ideology*, Auckland, 214–39.
- Stone, A. M. (2013) 'A year of one's own: dating the praetorship of Marcus Crassus', *Antichthon* 47, 101–17.
- Stone, A. M. (forthcoming) 'Gaius Verres Troubleshooter', in C. Steel, H. van der Blom, and C. Gray (eds), *Institutions and Ideology in Republican Rome: Speech, Audience and Decision*, Cambridge.
- Strasburger, H. (1965) 'Poseidonios on problems of the Roman empire', *JRS* 55, 40–53.
- Strasburger, H. (1966) 'Der "Scipionenkreis"', *Hermes* 94, 60–72.
- Strasburger, H. (1990) *Ciceros philosophisches Spätwerk als Aufruf gegen die Herrschaft Caesars*, ed. G. Strasburger, Hildesheim.
- Stroh, W. (1983) 'Die Provinzverlosung am 28. November 44', *Hermes* 111, 452–8.
- Sullivan, F. A. (1941) 'Cicero and *gloria*', *TAPA* 72, 382–91.
- Sullivan, R. D. (1977) 'The dynasty of Commagene', *ANRW* II.8, 732–98.
- Sullivan, R. D. (1980) 'The dynasty of Cappadocia', *ANRW* II.7.2, 1125–68.
- Sumner, G. V. (1971) 'The *Lex Annalis* under Caesar', *Phoenix* 25, 246–71.
- Sumner, G. V. (1982) 'The *coitio* of 54 BC', *HSCP* 86, 133–9.
- Suolahti, J. (1955) *The Junior Officers of the Roman Army in the Republican Period*, Helsinki.

- Swain, S. C. R. (1990) 'Plutarch's Lives of Cicero, Cato, and Brutus', *Hermes* 118, 192–203.
- Syme, R. (1939) 'Observations on the province of Cilicia', in W. M. Calder and J. Keil (eds) *Anatolian Studies Presented to William Hepburn Buckler*, Manchester, 299–332.
- Syme, R. (1939a) *The Roman Revolution*, Oxford.
- Syme, R. (1964) *Sallust*, Berkeley.
- Talbert, R. J. A. (1984) *The Senate of Imperial Rome*, Princeton.
- Talbert, R. J. A. (1996) 'The senate and senatorial and equestrian posts', in A. Bowman, E. Champlin, and A. Lintott (eds) *Cambridge Ancient History*, 2nd edn, vol. 10, Cambridge, 324–43.
- Tan, J. (2008) 'Contiones in the age of Cicero', *CA* 27, 163–201.
- Tan, J. (forthcoming) *Power and Public Finance at Rome (264–49 BCE)*, New York.
- Tatum, W. J. (1990) 'The *lex Clodia de censoria notione*', *CP* 85, 34–43.
- Tatum, W. J. (1998) Review of Berry, *Cicero. Pro P. Sulla Oratio*, *CJ* 93, 459–63.
- Tatum, W. J. (1999) *The Patrician Tribune: Publius Clodius Pulcher*, Chapel Hill.
- Tatum, W. J. (2011) 'The Late Republic: autobiographies and memoirs in the age of the civil wars', in G. Marasco (ed.) *Political Autobiographies and Memoirs in Antiquity*, Leiden, 161–88.
- Tatum, W. J. (2013) 'Campaign rhetoric', in C. Steel and H. van der Blom (eds) *Community and Communication: Oratory and Politics in Republican Rome*, Oxford, 133–50.
- Taylor, L. R. (1949) *Party Politics in the Age of Caesar*, Berkeley.
- Taylor, L. R. (1951) 'On the chronology of Caesar's first consulship', *AJPh* 72, 254–68.
- Taylor, L. R. (1964) 'Magistrates of 55 B.C. in Cicero's *Pro Plancio* and Catullus 52', *Athenaeum* 42, 12–28.
- Taylor, L. R. (1966) *Roman Voting Assemblies from the Hannibalic War to the Dictatorship of Caesar*, Ann Arbor.
- Taylor, L. R. (1968) 'The dating of major legislation and elections in Caesar's first consulship', *Historia* 17, 173–93.
- Thomas, J.-F. (2002) *Gloria et laus. Étude sémantique*, Leuven.
- Thomasson, B. E. (1960) *Die Statthalter der Römischen Provinzen Nordafrikas*, Lund.
- Thomasson, B. E. (1982) 'Zur Verwaltungsgeschichte der römischen Provinzen Nordafrikas', *ANRW* II.10.2, 3–61.
- Thompson, F. H. (2003) *The Archaeology of Greek and Roman Slavery*, London.
- Timpe, D. (1962) 'Die Bedeutung der Schlacht von Carrhae', *Museum Helveticum* 19, 104–29.
- Todd, R. B. (1976) *Alexander of Aphrodisias on Stoic Physics*, Leiden.
- Tröster, M. (2008) *Themes, Character, and Politics in Plutarch's Life of Lucullus*, Stuttgart.
- Tröster, M. (2009) 'Roman hegemony and non-state violence: a fresh look at Pompey's campaign against the pirates', *G&R* 56, 14–33.
- Trunk, M. (2008) 'Studien zur ikonographie des Pompeius Magnus: die numismatischen und glyptischen quellen', *Jahrbuch des Deutschen Archäologischen Instituts* 123, 101–70.
- Tweedie, F. (2015) 'Appian's characterisation of Scipio Aemilianus', in K. Welch (ed.) *Appian's Roman History: Empire and Civil War*, Swansea, 169–84.

- Twyman, B. (1972) 'The Metelli, Pompeius, and prosopography', *ANRW* I.1, 816–74.
- Tyrrell, R. Y., and L. C. Purser (1904) *The Correspondence of M. Tullius Cicero*, vol. 1, 3rd edn, Dublin.
- Tyrrell, R. Y., and L. C. Purser (1933) *The Correspondence of M. Tullius Cicero*, vol. 6, 2nd edn, Dublin.
- Udoh, F. E. (2005) *To Caesar What is Caesar's. Tribute, Taxes, and Imperial Administration in Early Roman Palestine (63 B.C.E.–70 C.E.)*, Providence.
- Valverde, L. A. (2001) 'Inscripciones honoríficas dedicadas a Pompeyo Magno', *Faventia* 23, 87–102.
- van den Hout, M. P. J. (1999) *A Commentary on the Letters of M. Cornelius Fronto*, Leiden.
- van der Blom, H. (2010) *Cicero's Role Models: The Political Strategy of a Newcomer*, Oxford.
- van der Blom, H. (2011) 'Pompey in the *contio*', *CQ* 61, 553–73.
- van der Blom, H. (2012) 'Cato and the people', *BICS* 55, 39–56.
- van Nuffelen, P. (2010) 'Varro's *Divine Antiquities*: Roman religion as an image of truth', *CP* 105, 162–88.
- van Rooij, M. (1990) 'Stoic etymologies in Varro's *De lingua latina*', in P. Swiggers and A. Wouters (eds) *Le langage dans l'antiquité classique*, Leuven.
- Vasaly, A. (1993) *Representations: Images of the World in Ciceronian Oratory*, Berkeley.
- Vasaly, A. (2009) 'Cicero, domestic politics, and the first action of the Verrines', *CA* 28, 101–37.
- Vasaly, A. (2013) 'The political impact of Cicero's speeches', in C. Steel (ed.) *The Cambridge Companion to Cicero*, Cambridge, 141–59.
- Venturini, C. (1979) *Studi sul «crimen repetundarum» nell'età repubblicana*, Milan.
- Verbrugghe, G. P. (1975) 'Narrative pattern in Posidonius' *History*', *Historia* 24, 189–204.
- Verdegem, S. (2010) *Plutarch's Life of Alcibiades: Story, Text and Moralism*, Leuven.
- Vermeulen, A. J. (1956) *The Semantic Development of Gloria in Early-Christian Latin*, Nijmegen.
- Versnel, H. S. (1970) *Triumphus*, Leiden.
- Vervaeet, F. J. (2006) 'The scope of the *lex Sempronia* concerning the assignment of the consular provinces (123 BCE)', *Athenaeum* 94, 625–54.
- Vervaeet, F. J. (2010) 'Arrogating despotic power through deceit: the Pompeian model for Augustan *dissimulatio*', in A. J. Turner, K. O. Chong-Gossard, and F. J. Vervaeet (eds) *Private and Public Lies: The Discourse of Despotism and Deceit in the Graeco-Roman World*, Leiden, 133–66.
- Vogel-Weidemann, U. (1985) 'The dedicatory inscription of Pompeius Magnus in Diodorus 40.4', *Acta Classica* 23, 57–75.
- Vogt, K. M. (2008) *Law, Reason, and the Cosmic City: Political Philosophy in the Early Stoa*, Oxford.
- Walbank, F. W. (1965) 'Political morality and the friends of Scipio', *JRS* 55, 1–16.
- Ward, A. M. (1970) 'Cicero and Pompey in 75 and 70 B.C.', *Latomus* 29, 58–71.
- Ward, A. M. (1970a) 'The early relationships between Cicero and Pompey until 80 B.C.', *Phoenix* 24, 119–29.

- Ward, A. M. (1977) 'Caesar and the pirates II: the elusive M. Iunius Iuncus and the year 75/4', *AJAH* 2, 26–36.
- Ward, A. M. (1977a) *Marcus Crassus and the Late Roman Republic*, Columbia MO.
- Wardle, D. (1998) *Valerius Maximus. Memorable Deeds and Sayings: Book 1*, Oxford.
- Wardle, D. (2006) *Cicero on Divination*, Oxford.
- Wardle, D. (2014) *Suetonius. Life of Augustus*, Oxford.
- Watson, A. (1881) *Cicero. Select Letters*, Oxford.
- Weinrib, E. J. (1968) 'The prosecution of Roman magistrates', *Phoenix* 22, 32–56.
- Weinrib, E. J. (1970) 'The judiciary law of M. Livius Drusus (tr. pl. 91 B.C.)', *Historia* 19, 414–43.
- Weinrib, E. J. (1971) 'The prosecution of magistrates-designate', *Phoenix* 25, 145–50.
- Welch, K. (1996) 'T. Pomponius Atticus: a banker in politics?', *Historia* 45, 450–71.
- Welch, K. (1998) 'Caesar and his officers in the Gallic War Commentaries', in K. Welch and A. Powell (eds) *Julius Caesar as Artful Reporter*, London, 85–110.
- Welch, K. (2005) 'Lux and lumina in Cicero's Rome: a metaphor for the *res publica* and her leaders', in K. Welch and T. W. Hillard (eds) *Roman Crossings: Theory and Practice in the Roman Republic*, Swansea, 313–38.
- Welch, K. (2008) 'Nimium felix: Caesar's *felicitas* and Cicero's *Philippics*', in T. Stevenson and M. Wilson (eds) *Cicero's Philippics: History, Rhetoric, Ideology*, Auckland, 181–213.
- Welch, K. (2012) *Magnus Pius. Sextus Pompeius and the Transformation of the Roman Republic*, Swansea.
- Welch, K. (ed.) (2015) *Appian's Roman History: Empire and Civil War*, Swansea.
- Welch, K., and H. Mitchell (2013) 'Revisiting the Roman Alexander', *Antichthon* 47, 80–100.
- Werner, S. (1994) 'On the history of the *Commenta Bernensia* and the *Adnotationes super Lucanum*', *HSCP* 96, 343–68.
- Whitehead, S. (2005) 'Cicero's *virī clarissimi*', in K. Welch and T. W. Hillard (eds) *Roman Crossings. Theory and Practice in the Roman Republic*, Swansea, 141–207.
- Willems, P. (1878–83) *Le sénat de la république romaine*, Leuven.
- Williams, R. S. (1984) 'The appointment of Glabrio (cos. 67) to the eastern command', *Phoenix* 38, 221–34.
- Wiseman, T. P. (1969) 'The census in the first century B.C.', *JRS* 59, 59–75.
- Wiseman, T. P. (1970) 'The definition of "eques Romanus" in the late Republic and early empire', *Historia* 19, 67–83.
- Wiseman, T. P. (1985) *Catullus and His World: A Reappraisal*, Cambridge.
- Wiseman, T. P. (1992) 'Caesar, Pompey and Rome, 59–50 B.C.', in J. A. Crook, A. Lintott, and E. Rawson (eds) *Cambridge Ancient History*, 2nd edn, vol. 9, Cambridge, 368–423.
- Wiseman, T. P. (1992a) 'The senate and the *populares*, 69–61 B.C.' in J. A. Crook, A. Lintott, and E. Rawson (eds) *Cambridge Ancient History*, 2nd edn, vol. 9, Cambridge, 327–67.
- Wistrand, M. (1979) *Cicero Imperator*, Göteborg.
- Witzmann, P. (2003) 'Integrations- und Identifikationsprozesse römischer Freigelassener nach Auskunft der Inschriften (1. Jh. v. Chr.)', in A. Haltenhoff, A. Heil, and

- F.-H. Mutschler (eds) *O Tempora, O Mores! Römische Werte und Römische Literatur in den letzten Jahrzehnten der Republik*, Munich, 289–322.
- Wood, N. (1988) *Cicero's Social and Political Thought*, Berkeley.
- Woodman, A. J. (1983) *Velleius Paterculus. The Caesarian and Augustan Narrative*, Cambridge.
- Wussow, S. (2004) *Die Persönlichkeit des Cato Uticensis—Zwischen stoischer Moralphilosophie und republikanischem Politikverständnis*, diss. Heinrich-Heine-Universität Düsseldorf.
- Yakobson, A. (1999) *Elections and Electioneering in Rome: A Study in the Political System of the Late Republic*, Stuttgart.
- Yakobson, A. (2009) 'Public opinion, foreign policy and "just war" in the Late Republic', in C. Eilers (ed.) *Diplomats and Diplomacy in the Roman World*, Leiden, 45–72.
- Yarrow, L. M. (2006) *Historiography at the End of the Republic. Provincial Perspectives on Roman Rule*, Oxford.
- Yavetz, Z. (1983) *Julius Caesar and His Public Image*, London.
- Zadorojniy, A. V. (1997) 'Tragedy and epic in Plutarch's "Crassus"', *Hermes* 125, 169–82.
- Zetzel, J. E. G. (1996) *Cicero De Re Publica. Selections*, Cambridge.
- Ziegler, R. (1993) 'Ären kilikischer Städte und Politik des Pompeius in Südostkleinasien', *Tyche* 8, 203–19.

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